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SELECT COMMITTEE LABOUR RELATIONS ACT

Volume No. 4

September 23 & 24, 1957

LEGISLATIVE ASSEMBLY OF ONTARIO

SELECT COMMITTEE ON LABOUR RELATIONS

Committee Room No. 1, Parliament Buildings,
Queen's Park,
Toronto, Ontario

Monday,
September 23, 1957

JAMES A. MALONEY

Chairman

HAROLD PERKINS

Secretary

MEMBERS PRESENT:

G. E. Jackson
Donald C. Macdonald
Ellis P. Morningstar
Raymond M. Myers
Arthur J. Reaume
H. Leslie Rowntree
J. W. Spooner
Albert Wren
John Yaremko
Robert Macaulay

APPEARANCES:

Mr. J. B. Metzler

Deputy Minister of
Labour

Mr. J. Finkelman

Chairman, Labour
Relations Board

Mrs. Josephine

Grimshaw, M.A. Economist, Ontario
Department of Labour

Mr. F. Parmenter, B.Comm.

Ontario Department
of Labour

THE CHAIRMAN: Gentlemen, we will commence this session of the Select Committee on Labour Relations. All of you have received a memo from the Secretary of the Committee enclosing, among other things, a copy of the Minutes of our meetings held on June 24, 25 and 26. I assume that everyone has read the Minutes and if there are no alterations or corrections I will suggest that someone move that they be adopted as read.

MR. MACDONALD: Mr. Chairman, I do not know whether you include the transcript, the complete transcript of the Minutes or not, but there are a couple of minor corrections which I would like to draw to your attention. At page 374 of the transcript one of the gentleman attending that meeting was a gentleman by the name of Donald C. Morningstar. I do not know which would be more difficult, the physical or political amalgamation.

The other one is more serious, Mr. Chairman, on page 327 in the middle of the page I am quoted as saying:

"A moment ago there was a high-

"priest enunciation by Mr. Reaume--"

What I said was "a high principle enunciation". The other has sort of a nasty overtones.

MR. REAUME: My answer to that if you will notice was all right, do you not think?

THE CHAIRMAN: Very good. Any other

corrections in either the Minutes or the transcript?

MR. YAREMKO: Mr. Chairman, in regard to the Minutes, although this is not an error, on page 2 there was a motion made by Mr. Macaulay seconded by myself and then at the bottom line it reads:

"This motion was carried by a
"vote of all the members of the
"Committee with the exception of
"Mr. Macdonald who voted in the
"negative."

Though I do not have the authority with me, I think the same principle applies that unless there is, in accordance with the rules of Committee meetings, a request for a standing vote, should a vote should not be recorded in that way, that is, the motion is either carried or lost by the declaration of the chairman, unless a sufficient number of the members of the Committee ask for a recorded vote, in which case the vote is recorded. This would appear to be the same as a recorded vote and I think in the future we should adhere to the rules of Committee meetings and a report will not be made unless it is requested.

MR. MACDONALD: In connection with that particular ruling and vote, I think it is very important in terms of the future of this Committee and I have been giving the matter a great deal of thought. What in effect it means is we shall not be able to ask any witness, including the

Minister, any question pertaining to what he regards to have been or now to be government policy, which struck me at the time to be a rather crippling kind of restriction of our activities. I was very interested in this book which has been given to the Committee members by W. C. Wheare, "Government by Committee". Apparently Mr. Wheare is regarded as being an expert in his field and after reading the book in the summer I thought it would be interesting to find what Mr. Wheare's views are. I therefore wrote him a letter and I have a reply dated September 11th, which I will read. I am willing to table this letter if you so desire, but the two important paragraphs, in my opinion, are as follows ---

THE CHAIRMAN: May we first have you read the letter that you wrote to him?

MR. MACDONALD: Yes, the letter I wrote to him was as follows:

"I am a member of the Select
 "Committee of the Ontario Legislature
 "established to look into the Labour
 "Relations Act and make recommendations
 "for its amendment. When this Com-
 "mittee commenced its deliberations
 "each member was presented with a
 "copy of your book Government by
 "Committee, An Essay on the British

"Constitution. May I say at the out-
 "set that I found your work an interes-
 "ting and most useful volume.

"In the couse of the Committee's
 "proceedings a point has arisen on which
 "I am now presuming to encroach on your
 "time and detailed knowledge. Early
 "sessions of the Committee were devoted
 "to submissions by the Minister of
 "labour and top departmental officials.
 "Inevitably there were queries of
 "these witnesses regarding provisions
 "of the existing legislation, or the
 "absence thereof, during the course of
 "which the chairman ruled that no member
 "of the committee might ask the Minister
 "anything with reference to government
 "policy. In the ensuing discussion
 "the chairman broadened his ruling
 "further, excluding questions which
 "might seek the Minister's personal
 "view of the existing legislation.
 "Subsequently this ruling became em-
 "bodied in a motion adopted by the
 "Committee (though not unanimously),
 "as follows:

"That this Committee be per-
 mitted to ask questions

directed towards the experience of any witness as to any matters within the terms of reference of this Committee, saving that such questions may not seek to obtain from such witness what he understands to have been or now to be government policy.'

"To your knowledge, is there any justification, in precedent or otherwise, for members of a Select Committee being barred from asking the Minister questions concerning his views of the existing legislation when the Minister has personally told the Committee that he hopes to be able to participate fully and freely in the committee's proceeding, while reserving the right to refrain from answering any question? Secondly, is there any justification, in precedent or otherwise, for barring such questions of witnesses other than the Minister.

"Finally, would you care to express an opinion as to the likely result of such a restrictive motion as that quoted above upon the effectiveness of any committee's investigations?

That incidentally was dated July 26th.

His reply dated September 11th was as follows:

"I was very interested to receive
 "your letter. I am sorry that I
 "have been so slow in replying to it.
 "I have been away on vacation and I
 "have also had to take a little time in
 "doing some reserrch on the subject. I
 "should say at once that I am not an
 "authority on Parliamentary procedure.
 "I think if you wanted a really authori-
 "tative opinion on the point you raise
 "it would be best to write to the
 "Clerk of the House of Commons at
 "Westminster. I am quite ready
 "to give you a layman's opinion
 "on the matter.

"In my opinion the ruling of
 "your Chairman that no member of the
 "Committee might ask a Minister any-
 "thing with reference to Government
 "policy would not be supported by
 "precedent in the practice of the
 "British House of Commons in relation
 "to the proceedings of a Select
 "Committee. I think on the other
 "hand that if a Minister declined
 "to answer questions on policy that

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1891. 1892. 1893. 1894. 1895. 1896. 1897. 1898. 1899. 1900.

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2101.

"would be considered to be quite proper.

"I cannot think however that there

"would be a bar on asking the questions.

"Indeed it is difficult to see what

"point there is in bringing a Minister

"before a Committee if one cannot ask

"him about policy.

"I think when it comes to witnesses

"other than a Minister it would be under-

"stood in this country that questions on

"policy addressed to Civil Servants

"would be, if not out of order, at any

"rate ineffective because a Civil Ser-

"vant would always be expected to

"say that policy was not a matter for

"him but for the Minister. The

"Chairman of a Select Committee would

"always uphold him on this. So far

"as witnesses other than Civil Ser-

"vants are concerned I should have

"thought that members of a Select

"Committee could ask them questions

"about policy quite freely. I am

"bound to say that I think your

"committee's ruling tends to make its

"investigations rather less effec-

"tive than they would be if there

"were freedom to ask questions about

"policy.

"I hope this information is of
 "some help to you, but I ought to
 "emphasize once more that I am no expert.
 "I have based my remarks also on practice
 "in this country. It may be that
 "there would be precedents in some other
 "countries of the Commonwealth. I
 "appreciate very much what you had to
 "say about my book Government by Committee."

Now, Mr. Chairman, quite apart from that fact that this is a man who apparently those who provided the book for us considered was a sufficient expert as to give us the benefit of his experience, the thing I am more interested in is how this Committee proposes to operate. If we are not going to be permitted to ask any question, including the Minister, any questions pertaining to policy ---

THE CHAIRMAN: I think we are getting a little ahead of ourselves. The matter we have to consider first now in this Committee is the Minutes of June 24th, 25th and 26th. As I said at the outset, I assume every member has read the Minutes, and there have been a few corrections suggested to the Chair, and if there are no other corrections or alterations would someone be kind enough to move that the Minutes be adopted as read, with the amendments as they have been

indicated.

MR. WREN: I will move that.

THE CHAIRMAN: Moved by Mr. Wren, seconded by Mr. Rowntree, that the Minutes be adopted with the amendments as read. All in favour of the motion? Carried.

Now, before we get into matters raised by Mr. MacDonald, gentlemen, there are a few other matters to be considered, and one is the appointment of counsel for this Committee. I have been fortunate enough to have had the opportunity of discussing this matter with Mr. George T. Walsh, Q.C., a very eminent counsel, and if it meets with the approval of the Committee, he has consented to act as counsel for the Committee. I will therefore entertain a motion from some member of the Committee.

MR. WREN: May I ask a question?

THE CHAIRMAN: Yes.

MR. WREN: Is it the usual practice or will it be the practice of this Committee that questions will be directed through counsel or will each individual member as well have sufficient latitude to ask questions?

THE CHAIRMAN: Each individual member will have sufficient latitude, but I think with counsel we can be kept in proper paths as to the matter where some contentious questions might be directed.

MR. WREN: It will not take away any of our rights?

THE CHAIRMAN: Oh, no.

MR. MYERS: Mr. Chairman, I have known Mr. Walsh for a good many years and I think he will be a very excellent counsel for the Committee. Mr. Walsh has had a vast amount of experience in all branches of the law and I move that he be appointed as counsel for the Committee.

MR. REAUME: I second the motion, Mr. Chairman.

THE CHAIRMAN: Moved by Mr. Myers and seconded by Mr. Reaume that Mr. George T. Walsh, Q.C., be appointed as Counsel for this Committee. All in favour of the motion? Contrary if any? Carried.

Now, another matter that has arisen from the notification that has been received from the Secretary dated the 16th September:

"The Chairman will recommend
 "to the Committee that meetings also
 "be held on the three following days,
 "the 24th, 25th and 26th of September
 "and on Mondays, Tuesdays, Wednesdays
 "and Thursdays during the month of
 "October, with the exception of
 "Thanksgiving Day which is on the
 "14th of October."

Now, I thought it would be wise to bring this matter to the attention of the Committee at the outset of our hearings, and this is merely my own thought on the matter without consulting anyone else, but I thought it would give us an indication of how often we should meet and what the wishes of the members of the Committee might be in connection with our sittings. I think this is a matter that should be resolved at this stage of the meeting.

MR. MORNINGSTAR: Meeting four days a week, how long would you anticipate we would need, how many weeks, having regard to the briefs that we have before us?

THE CHAIRMAN: Well, judging from the list of those who have signified their intention of appearing before us there appears to be some sixty-nine. It would all depend on how the briefs are presented and how long the Committee would take in dealing with each brief. It is fairly difficult to guess just how long we would have to sit.

MR. MORNINGSTAR: I think we should at least sit four days a week, and I will be glad to go along with the suggestion and move that we meet four days a week.

MR. REAUME: Would you think the whole thing would take about five weeks?

THE CHAIRMAN: As I said, I cannot predict but I am hopeful we should be able to

conclude our hearings of the briefs by the end of October.

MR. MYERS: Mr. Chairman, as far as I am concerned, I could not attend every week four days a week, if that would make any difference. I would suggest it should be reduced to three days a week.

MR. JACKSON: I am in the same position as Mr. Myers, Mr. Chairman.

THE CHAIRMAN: Anybody else?

MR. MACDONALD: Is it not your hope that we could cover all the briefs in this fall period?

THE CHAIRMAN: I was hoping we could.

MR. MACDONALD: I have a recollection from, last February -- perhaps it is wrong -- that possibly it would not be possible to hear them all before the next session of the House. Is there some change?

THE CHAIRMAN: No, this is merely my own thought. I have business to attend to and I would like to get this disposed of because I find I cannot attend to my business properly and at the same time attend this Committee.

MR. MORNINGSTAR: I would agree with the four days; I think we should get it over with.

THE CHAIRMAN: I do not see any point in us lying down on the job. If we can sit four days a week I think we should, and if we cannot then we just cannot.

MR. MACDONALD: Your objective is that

we hear all the briefs this fall and get a report in to the next Legislature?

THE CHAIRMAN: Oh, I did not say that.

MR. JACKSON: My views were not an objection, and I do not think Mr. Myers' views were either. I am just pointing out that I could not be here.

THE CHAIRMAN: As Chairman of this Committee I want to accommodate the majority of the members of the Committee and this, as I say, is entirely my own thinking on it, and for the reason I have already indicated I want to try and get the job done.

MR. ROWNTREE: Four days a week means it is a full-time job. That is the extreme on one side, and the other extreme is we only sit one day a week and everybody forgets what happens next time we meet. If I had any choice I would prefer not to sit four days a week.

MR. REAUME: The only point about that is that we have people here. For instance, Mr. Wren has to come from miles and miles away. His home is very far away.

MR. WREN: In God's country.

MR. REAUME: Yes, and I think we should try to finish this thing because if we do not do it now we will have to do it later in any event, and perhaps our time will be spent on the train here and back again. I would like to try and

get it over with as quickly as we can. I am only assuming that you want to put something in when the House opens.

THE CHAIRMAN: An interim report at least.

MR. YAREMKO: I agree that the Committee should get on with its work and yet four out of five days would mean we would be sitting almost continually for a period of at least one month, if not longer. I am making a suggestion that I think it is better to sit three days a week, it might take us a week longer to complete our hearings, but I think the members of the Committee would be in a much better position to attend all meetings if we attended three meetings a week instead of having some members present at four meetings a week. Mr. Wren, of course, does come from a tremendous distance and I do not know if with four days a week he would be able to get back home during the interval, whereas if we sit only three days a week he would have the opportunity on some occasions to get back to his home.

MR. REAUME: He would only arrive home and have to get back on the next train.

MR. YAREMKO: Even with the three days?

MR. REAUME: Yes.

MR. WREN: I feel that even after the briefs there is a great deal of information and there is a lot of work to be done. I quite

appreciate the feelings of these legal people, particularly, on the Committee. They have their commitments no doubt, so I would be willing to concede anything as to how it would work out. I just assumed when I left home that it was going to be four days a week; in other words, that I would be here most of the time.

THE CHAIRMAN: The Secretary was very careful to state that the Chairman would recommend to the Committee. I merely did for the purpose of seeking out the views of members of the Committee and to accommodate the wishes of the Committee.

MR. YAREMKO: My point is, it would be preferable to have three days a week sitting and have as close to one hundred per cent of the members of the Committee as to have four days a week and have a quorum of the members present at the Committee. I will say this, if the Committee decides to sit four days a week I will be here four days a week.

THE CHAIRMAN: Can we be assured of one hundred per cent attendance, all other things being equal, if we decide to sit three days a week? Could you arrange that, Mr. Yarenko?

MR. YAREMKO: No.

THE CHAIRMAN: Mr. Myers?

MR. MYERS: Yes, I think I can.

THE CHAIRMAN: Mr. Jackson?

MR. JACKSON: That would put it closer to

one hundred per cent.

THE CHAIRMAN: That being so, if we sit three days a week shall we commence our sittings on Monday or Tuesday of the week?

MR. JACKSON: Tuesday, Wednesday and Thursday.

THE CHAIRMAN: Mr. MacDonald?

MR. MacDONALD: As far as I am concerned I am not expressing any view because I happen to be in a different position; I can sit seven days a week if you want. It does not matter which days. Any decision that accommodates the rest of the Committee is all right with me.

THE CHAIRMAN: It seems to be the majority view that we sit three days a week and that we sit on Tuesdays, Wednesdays and Thursdays, and that is perfectly all right with me. As to the rest of the sittings, the present hours we are sitting are eleven to one and two to four. Would that be suitable?

MR. MYERS: Yes, that suits me fine.

THE CHAIRMAN: Would someone introduce a motion to that effect?

MR. JACKSON: I will do that.

THE CHAIRMAN: Moved by Mr. Jackson, seconded by Mr. Reaume that this Committee starting next week sit each Tuesday, Wednesday and Thursday until the briefs have been presented and that the hours of the Committee meetings will be commencing

at eleven o'clock in the morning and adjourning at one o'clock, reconvening at two o'clock and adjourning at four o'clock. All in favour of the motion?

Carried.

Now, then, gentlemen, I suppose the first thing to do is to officially welcome Mr. George T. Walsh, Q.C., as counsel for this Committee, and I shall ask Mr. Walsh to introduce himself to the Committee.

MR. GEORGE T. WALSH, Q.C.: Gentlemen, this is a great pleasure for me to accept the honour. When Mr. Perkins spoke to me about it, as well as you, Mr. Chairman, I explained that perhaps I would not be here all the time because that interferes with a lot of my law work, but I will be glad to be here whenever it is necessary and help you all I can.

THE CHAIRMAN: Thank you. Now, then, gentlemen, as you know the first thing that we are to deal with on the agenda this morning is that we are to hear from the officials of the Department of Labour who will present suggestions concerning conciliation services, conciliation boards and other data previously requested by the Committee.

Before doing that, Mr. MacDonald has raised a point concerning the correspondence that has been exchanged between himself and the author of the book, Mr. Wheare, concerning a ruling made

by the Chair. Now, much as I enjoyed the book, much as I respect Mr. Wheare and Mr. MacDonald, and their opinions, there has been a ruling made by this Chair and I think it is rather in a different category to that which Mr. Wheare referred to. The hon. Minister of Labour was not brought before this Committee as a witness; he appeared before the Committee voluntarily to give us the benefit of his knowledge. He was not under subpoena to attend, and under the circumstances I think that the ruling that was made at our last session of this Committee was a proper ruling.

Now, if the Committee feels that the ruling should be changed, I would be prepared to entertain a motion, but personally I am of the opinion that the ruling as made on the motion of Mr. Macaulay, seconded by Mr. Yaremko, that this Committee be permitted to ask questions directed towards the experience of any witness and as to any matters within the Terms of Reference of this Committee saving that such questions may not seek to obtain from such witness what he understands to have been or now to be government policy. As I say, if anybody cares to introduce a motion to change that ruling the Chair will put it to the Committee.

MR.MACDONALD: Mr. Chairman, let me make this one point, and I will not elaborate beyond it: It is true that the Minister was not subpoenaed; he came of his own free will --

THE CHAIRMAN: Very willingly too.

MR.MACDONALD: -- and the record indicated he hoped to be able to come and participate freely, and the net effect of this resolution is that the Minister cannot participate freely. However, that is not what interests me most: It is not just the Minister that this resolution bars from expressing any view with regard to policy; it is any witness. I drew this to the attention of the committee when the motion was brought before the committee. Any witness, the Minister or otherwise, is going to be forbidden the right to express the view of what he deems to have been or now is Government policy.

THE CHAIRMAN: I think in view of the interpretation you have drawn from the resolution, you should consider we were dealing entirely with the question of the witnesses, being the Minister himself and the officials of his department. If some representative of, say, the employers wants to give his opinion of Government policy, certainly this motion was not intended to restrict him; or, if somebody representing the employees wants to

criticize or give his expression of opinion on Government policy, this motion was not intended for that purpose.

MR. MACDONALD: If that is your interpretation now, Mr. Chairman, what you are doing is watering down the obvious meaning of the general resolution.

THE CHAIRMAN: That is not accurate.

MR. MACDONALD: This is the exact wording: "That this committee be permitted to ask questions directed towards the experience of any witness and to any matters within the Terms of Reference of this committee."

THE CHAIRMAN: While the resolution does not say so, I am sure every member of the committee will agree with me that the motion was intended to cover merely the Minister of Labour and the officials of the Department of Labour.

MR. MACDONALD: In other words, the resolution is intended to mean something other than what it says.

THE CHAIRMAN: Well, do you want to haggle about words? What is the opinion of the other members?

MR. REAUME: We argued this once before, and I thought the real intent and purpose of this motion was to prevent any members trying to put the Minister of Labour continuously on the

spot, or the officials of the department. I do not see anything at all in the motion that would stop any of the officials of the department from giving advice, or anything we might want in the way of information, other than the policy of the Government. Now, we argued about this thing one day here for an hour, and it became quite obvious there was going to be a line followed here, instead of getting down to the meat and the reason or the purpose for which we are here, that we should spend all of our time making an attempt to put certain people on the spot. I think that was the real purpose of the matter.

THE CHAIRMAN: Definitely.

MR. YAREMKO: The mover of this motion is not here, but I seconded that motion, and I completely agree with your interpretation of it: All the discussion centered about the question of the Minister and the Members of the Civil Service, and if Mr. Macdonald has taken that letter -- may I see it? As a matter of fact, Mr. Wheare's reply and I are not too far apart. If you recall the discussion, and I brought the attention of the committee that -- and I am quoting from Mr. Wheare's letter: "I think, on the other hand, if a Minister declined to answer questions

of policy, that would be considered to be quite proper." My opinion at that time was that different questions could be directed to the Minister, knowing in advance that he would decline to answer the question, and then some political play might be brought about to imply that his refusal or his declining to answer questions on policy would be improper. That is why I seconded the motion.

Secondly, Mr. Wheare states: " ... that questions on policy addressed to Civil Servants would be, if not out of order, at any rate ineffective because a Civil Servant would always be expected to say that that policy was not a matter for him but for the Minister." I brought to the attention of the committee that at that time my opinion was that we as members of the Legislature should know that such questions were out of order, because only one answer could be expected.

THE CHAIRMAN: That is right.

MR. YAREMKO: Yet, a member of this committee thought that that part of the resolution should not have been passed.

MR. MACDONALD: Oh no, this is a gross misrepresentation of what the record officially states. I clearly stated, and I think everybody did, that it was perfectly

understandable and right that no question on policy should be directed towards a Civil Servant.

MR. YAREMKO: There was no hesitation on asking such questions.

MR. MACDONALD: That raises the specific situation we are now getting, that, namely, if you don't ask the Civil Servant whom do you ask? The point at issue is that you can ask the Minister. True, the Minister may, if he wants, refrain from replying, but you, Mr. Yaremko, have just quoted, without giving the next sentence, from Mr. Wheare -- namely that the Minister need not answer if he doesn't want to, but that should not place a bar on any member of the committee asking the question. You delightfully leave out that key sentence.

MR. YAREMKO: I doubt if I would ever hear Mr. Macdonald placing a question in this way: "Understand, Mr. Minister, it is quite proper for you to decline, but would you answer this question?" I am afraid I would never hear a question like that from Mr. Macdonald. As to the last part of the letter: "So far as witnesses other than Civil Servants are concerned, I should have thought that members of a Select Committee could ask them questions

about policy quite freely." As you have indicated, Mr. Chairman, I quite fully agree with you in that respect -- that any other witness, apart from the Minister and Civil Servants can be asked questions.

MR. MacDONALD: I agree with that, but I submit you are changing the resolution which was passed ten to one the last time.

THE CHAIRMAN: It is a matter of interpretation, Mr. MacDonald, and you choose to interpret it that way, which you are free to do, but, nevertheless, I can assure you if any witness comes here and desires to give his opinion on Government policy, other than the Ministers or Civil Servants in the department, or any department of the Government, we would be very glad to hear his opinion if you would be kind enough to inform Mr. Wheare to that effect, we will be very pleased.

Gentlemen, I am going to bring your attention to the fact that the department officials have furnished us with a statistical analysis of operations under the Labour Relations Act, and statistical tables on operations of the Ontario Labour Relations Board and on conciliation services in the Department of Labour. Both of these documents are rather voluminous, and I would suggest, if some

official of the Department would be kind enough to volunteer to read these reports allowed to the members of the committee before we decide to deal with them, that the report is of such a nature that in order for us to intelligently understand it we will have to follow the procedure we followed in our previous meeting and read them throughout. I do not propose to ask a member of the committee to do it. I think somebody from the Department of Labour should do it.

MR. METZLER: At the outset, I would like to draw to your attention that there are a number of documents of statistics and information on several matters that were desired by the committee, and before we proceed with the reading of these may I ask for the advice and guidance of the committee. You will remember that it was thought advisable to request that there be prepared a consolidation of the provisions of Canadian Statutes relating to Labour Relations.

That has been undertaken, and in respect of the common law provinces -- that is, all the provinces with the exception of Quebec -- I do not think Prince Edward Island is included, is it? -- Well, -- and the dominion, and that document has now been prepared, but we are faced

with a quandry. It is a very big document, and I would like to produce it and will file it with the committee. However, the problem is this: How to get the document down to size so that we can provide each member of the committee with a copy. We have endeavoured to have it reproduced and have it photographed, and have given every consideration as to how you would get it into shape so that each person would have the document. The ordinary means of quick reproduction are just not available. It follows, therefore, that the only way we can get the document into all hands in sufficient quantity would be to print it, and to print it is going to be a very expensive proposition. I am not in a position to state to you just what the cost of printing will be, but I can tell you it will be many hundreds of dollars, and I fully expect it would be in excess of \$1,000; how much I can't tell you. So, what I now ask for is the direction of the committee as to how they wish this document to be reproduced so that it may be conveniently be available to the members.

THE CHAIRMAN: I might say, Mr. Metzler was good enough to telephone me about this matter, and when he mentioned the figure of in excess of \$1,000 to have this printed,

I took the responsibility for telling him not to have it printed until such time as the committee considered it. I realized we would have to have it, but the thought occurred to me, is there no way in which this could be mimeographed in the department?

MR. METZLER: No sir, the document just does not lend itself to mimeographing. If you take out one of the sheets you can see the size of the document. I would like you to have a look at it. The document is based on an analysis of the Dominion and the Ontario Statute, and comparative analyses of the other provinces. It may be that in many instances they coincide, and, if they do, there is no effort to reproduce.

--- The Members of the Commission examined the document referred to.

THE CHAIRMAN: Gentlemen, after taking as cursory a look as I could at this, although not overlooking the importance of it, I feel that this consolidation is one of the keys to our whole study, and, subject to the thinking of the committee, of course, I feel that even though an expenditure of \$1,000 may be involved, or in excess of it, we should give very serious consideration to having this consolidation reduced to print form.

MR. JACKSON: May I ask this question: Does the department see any further use for it other than our use?

MR. METZLER: Well, I would say this, and Professor Finkelman will follow me while I state the position: The fact is that the two major documents that are quoted verbatim are the Ontario Statute and the Federal Statute. You will notice in examining the document that the other provinces are not quoted verbatim; if they coincide or compare within reason to what is the practice of the wording of the Ontario Legislation, then an appropriate note to that effect is inserted. That being the case, it does not exactly fall into the category of what you might call a universal document that any other province would say, "This is a document well worth having". It may be helpful to the provinces to take the document, and, by filling out what their own situation is, to make it useful to themselves. However, in general it does not analyse right down to the last word what appears in every statute across the country.

MR. FINKELMAN: In our discussions with the representatives of the Department of Labour in the other provinces, over the last

few months in gathering the information set out in the document, we have had indications from a great many people they would like to have copies of this document, because it would be useful to them. I think it has been very useful to us, and I am quite prepared to confess that I have learned a great deal about what has happened in other jurisdictions I didn't know before. I had a general knowledge of what was contained in the various statutes, but it is not until you set the provisions down side by side that you really can begin to appreciate how far our legislation is sound and what departures there are in other provinces, and then it provides you with an opportunity to examine whether the provisions that have been enacted in other jurisdictions can or cannot be of value to us in revising our own legislation.

MR. YAREMKO: I think, Mr. Chairman, that is a wonderful piece of work, and I have no doubt the printers could compile a book in a printed form in such a way that an annual revision, or a revision at any time, could take place and they could bring it up to the minute in the course of any year.

MR. MYERS: Why not discuss the publication of the document with a law printing

company who know how to set it up; they are doing it all the time.

MR. YAREMKO: I would make a motion, Mr. Chairman, that arrangements be made for the printing of this document in a fashion that it could be amended from year to year.

MR. ROWNTREE: How long will it take?

MR. FINKELMAN: It should not take very long to set up. We have discussed the matter with one or two printers and they say they could do it within a matter of three or four weeks.

Mr. Chairman, may I make one further comment about the printing of the document: As you can readily appreciate, this has been a scissors and paste job, and I don't want to minimize the difficulty of doing the work. We had to cut up copies of Acts and paste them together, and the document itself is rather unweildy. If the document is to be printed, I would ask for permission to make such minor modifications in it as may be necessary to put it in proper form. There would not be any substantial change, but it may be that we may switch around a few sections when we see the layout coming back from the printer -- the proof; it may be a little more convenient than it is now. However,

those will be very minor departures.

THE CHAIRMAN: Then, there would be a change in form, but not in substance?

MR. FINKELMAN: Not in form or in substance, but a section may be lifted out of one place and put in another because it would be more convenient, and you would get it in more manageable form.

MR. METZLER: We will file it as a document of the Department of Labour in its printed form, if that is the wish of the committee.

MR. REAUME: Are the sections of the Acts of the various provinces up to date? They are not old, antiquated Acts, or sections?

MR. METZLER: This has been prepared since last June, after we got your direction.

THE CHAIRMAN: It is the legislation presently in effect in all jurisdictions?

MR. METZLER: As far as we know.

MR. FINKELMAN: At this moment?

MR. METZLER: Yes, at this moment.

MR. REAUME: Well, I support the motion.

MR. METZLER: If there are going to be any substantial changes in the legislation of any province --

MR. REAUME: That is always a difficulty.

MR. SPOONER: I wonder if any purpose is going to be served to consider in printed form the Ontario Act and the Canada Act, and leave the other provinces as they are, and if someone from the department says, "You should consider the sections of the Manitoba Act" with respect to a certain matter, then we could discuss it. It certainly would reduce the printing job very much if we had Ontario and Canada, and I am basing that contention on the statement made by the witness with the Ontario and Canada Acts are considered to be pretty well written at this stage.

MR. REAUME: I would think, if we are going to do it, let us do the whole job.

MR. MacDONALD: I would agree with Mr. Reaume: If we are going to do it, you would fall between two stools by leaving out the other provinces. Our job here is to look at it from the Provincial point of view, and what has been done in other provinces, and what may or may not be the difficulties in adding or subtracting from other legislation. What the other provinces have done is often even more important than the Dominion.

THE CHAIRMAN: You have heard the motion introduced by Mr. Yaremko and seconded by Mr. Reaume, that the consolidation as

prepared by the officials of the Department of Labour be reduced to printed form in a manner that would be suitable for adding future revisions of the respective labour laws. Is there any further discussion on this motion? We have heard expressions of opinion from Mr. Yaremko, Mr. Reaume, Mr. MacDonald, Mr. Spooner and we have had the benefit of the advice of the officials. Is there any member of the committee who would care to express an opinion?

MR. WREN: I would be generally inclined to support the motion on the understanding that we can have this printed document in the time of six weeks.

THE CHAIRMAN: Do you think we can have it within four to five weeks?

MR. FINKELMAN: From what I have been told, we should have it within four or five weeks.

MR. WREN: But this information is going to be out of our hands during that time and we are going to need some time to study it.

THE CHAIRMAN: Do you think within six weeks we should have it?

MR. FINKELMAN: I should imagine so. I can point out, Mr. Chairman, that as soon as the type is set this document will be returned to you immediately, and then we would work from

the proofs, because we would check back to the original statutes, for accuracy, rather than this document.

MR. MacDONALD: May I ask a question through you, Mr. Chairman: Is this document not likely to be of considerable value if distributed among the unions? If a person with the vast knowledge of Professor Finkelman found it useful in getting even more information, it seems to me it would be of particular value for, say, the president of a union who is trying to make up his mind with regard to a certain section of the Act.

MR. REAUME: That is true, and for industry too.

MR. MacDONALD: For everyone. In other words, it seems to me that if sufficient copies of this were published, and it could be known among anybody in the province of Ontario, or outside it for that matter, that these are available, that it may be of considerable value far beyond our present need here in this committee.

MR. METZLER: There are a number of points that arise in connection with the document: I would not say that we have discharged our entire duty to this committee by filing one copy, but, as you can see, it has been an

enormous job, and the question of how to file additional copies is something we have to bring before this committee, because, on filing, it becomes the property of the committee, and therefore we are craving your assistance and indulgence in producing the document. I would imagine that it would be of great interest to universities, to people who are deeply engaging in the study of comparative law and labour relations, and unquestionably it would be looked on by associations of employers and trade unions as a very valuable document. We had thought to file the document and ask the committee to take whatever steps it deemed advisable to reproduce.

THE CHAIRMAN: That is what we propose to do now.

MR. METZLER: Yes, I wanted to make that clear, because we have no provision for that.

THE CHAIRMAN: I assume full responsibility for not instructing the officials to go ahead and reproduce it, because I could not do that until I heard the opinions of the Members of the Committee.

You have heard the motion, gentlemen, and if anyone would care to express his opinion on the matter, I wish he would do so now, and

not say later that he did not have the chance to. You have heard the motion; moved by Mr. Yaremko and seconded by Mr. Reaume. I do not propose to put it to you again. All in favour of the motion?

--- Carried.

MR. YAREMKO: Just at this point, Mr. Chairman, I noticed in the Book Review Section of the Globe and Mail on Saturday, a review entitled A Handbook on Canadian Labour Law by Alfred Cosby Crysler. I do not know whether Professor Finkelman has had occasion to read the book, or whether it has just come out. It evidently deals with a handbook on Canadian labour law, and I am just quoting one section: "To clarify the comprehension of lawyers and laymen, Alfred Cosby Crysler, Q.C., has written an exposition that is a model of clarity and concision. His statement is buttressed by specific references to legislation and to leading cases. The index appears adequate."

Perhaps that is a text book which could be made available to members of the committee. It sounds like an interesting book.

MR. METZLER: One final word on the printing of this document, if it is in order: We would be glad to consult with the Secretary and assist in the arranging for the printing because we have made some inquiries, and we would be glad to put him in touch with the results of the inquiries.

THE CHAIRMAN: The Secretary now has authority to finalize the point in regard to this resolution.

Have you heard of this book Professor Finkelman?

MR. FINKELMAN: I glanced through an early edition of this book, I believe, but I haven't had a chance to see the edition which seems to have been reviewed just recently, but I will get a copy and look at it.

(Page 420 follows)

THE CHAIRMAN: Gentlemen, we have also been provided by the Department Officials with a glossary of terms used in the Labour Relations Act. You will recall at our last sitting it was suggested that be done and it was sent out to you under date of September 16th. If you think we should have any explanation of these terms now or after hearing the other material prepared, we can have it done now. Whatever is the wish of the Committee. I think the terms as defined in the glossary are clear; it should be to the member of the legal profession on this Committee and I think they are understandable to the layman but if there is any point that arises that would seem to require further clarification I am quite sure Professor Finkelman would be pleased to assist in any way. We have the report statistical analysis of operation under the Labour Relations Act. Who is going to read this?

MR. METZLER: First of all, I will formally file this document, Glossary of Terms, which has been sent to you by the Officials of the Department but I am formally filing it.

I would like at the outset of our proceedings this morning express the regret of the Hon. Mr. Daley and Mr. Fine who are not in attendance because they are busily engaged in trying to settle the Plumbers' Strike in the City of Toronto. I do not know when they will attend but they will be

with the Committee as soon as they are free. I would like to say that the documents in question, statistical analysis of operations under the Labour Relations Act will be read by Mrs. Grimshaw who is an economist from the staff of the Department of Labour and she will be assisted in presenting the figures and discussing the figures by Mr. Parmenter who is also an economist in the Department of Labour.

Before we continue I would like to introduce Mr. G. W. Reed, Vice-Chairman of the Ontario Labour Relations Board, former Professor of Law in Industrial Relations at the University of Alberta. Mr. Reed joined our staff a little over a year ago.

THE CHAIRMAN: We are very happy to meet you, Mr. Reed.

Mrs. Grimshaw, you are going to read now from a statistical analysis under the Labour Relations Act.

MRS. GRIMSHAW: If it is all right with the members of the Committee Mr. Parmenter and I will spell each other. We are going to read the entire report as I think that will make it clear to everybody.

THE CHAIRMAN: Thank you, Mrs. Grimshaw.

---(Mrs. Grimshaw reads report).

THE CHAIRMAN: Gentlemen, I declare we
will adjourn until 2.00 o'clock this afternoon.

---(Page 423 follows).

AFTERNOON SESSION

---On resuming at 2.00 p.m.

THE CHAIRMAN: Gentlemen, we will resume at Section 2, the conciliation services in the Ontario Department of Labour.

You may sit down, Mr. Parmenter.

MR. PARMENTER: If you don't mind, Mr. Chairman, I would like to stand in order that I may refer to the diagram.

THE CHAIRMAN: All right.

MR. METZLER: I would like to point out, Mr. Chairman, that these diagrams which are here in large size have been reproduced in smaller size.

THE CHAIRMAN: We have them.

(Mr. Parmenter completed the reading
of the brief.)

THE CHAIRMAN: Did you propose also to read the statistical appendix on Group Collective Bargaining?

MRS. GRIMSHAW: Do you want that read, Mr. Chairman?

THE CHAIRMAN: That was my understanding.

MRS. GRIMSHAW: All right; I will read it if you like.

THE CHAIRMAN: Is it the wish of the Committee that it be read?

MR. MACAULAY: What page is it?

THE CHAIRMAN: Five pages from the end;
there are four pages to be read.

Would you care to read that, please?

MRS. GRIMSHAW: Yes.

(Mrs. Grimshaw read the Statistical
appendix referred to, pages 21 to 24
inclusive.)

THE CHAIRMAN: Thank you very much.

May I, on behalf of the Committee, thank
both of the persons who have read these reports?

Now, gentlemen, you have^{had}/read to you the
statistical tables on the operations of the Ontario
Labour Relations Board and of the Conciliation
Services, and also the statistical analyses under
the Labour Relations Act. We have also the glossary
of the terms used in the Labour Relations Act, pre-
pared by Professor Finkelman, which was sent to
each of you on the 16th of September.

The next matter to be dealt with is how
we wish to proceed at this stage with reference to
these reports that have been prepared for you.

MR. MACAULAY: May I ask a question, Mr.
Chairman?

THE CHAIRMAN: Yes.

MR. MACAULAY: There is one thing of
the many things arising out of this -- I am afraid

I missed some of it -- but one point that arises is that at the end of each year there is a carry-over; at the end of 1955/1956, as I recall it, there was a carry-over of 184 unresolved disputes. Is there any way of knowing whether those became resolved in the following year, or whether they are still outstanding?

MRS. GRIMSHAW: Well, the carry-overs will be caught in the next fiscal year. You will notice that the carry-overs in 1955/56 were caught in 1956/57 and accounted for.

Now we are considering continuous records by months on that so that we can keep track of all the ones that we have pending at the end of 1956/57; and as they appear in the monthly totals of decided cases they are checked off and put in the monthly figure.

MR. MACAULAY: Would you have any that were investigated in 1955/56 which are still going on?

MRS. GRIMSHAW: I can even check up on that for you.

MR. MACAULAY: I was wondering if there were any statistics which gave any indication, if a dispute has carried over, how long it may be carried over. I realize it is taken into the next year.

MR. GRIMSHAW: That data will be available in an analysis of time lapse which we will be presenting later on to the Committee.

MR. MACAULAY: Yes.

MRS. GRIMSHAW: We will have for you details of the time lapse -- the length of time.

MR. FINKELMAN: We will have that later.

MR. JACKSON: Is it the position now that we ask the questions?

THE CHAIRMAN: That is what we will have to settle.

MR. METZLER: May I direct the attention of the Committee to the fact that there are items A, B, C, D and E to which we were to make reports. We have covered at this stage statistics re conciliation services, item A; statistics re conciliation boards; and we have got the consolidated provisions of the statute relative to labour relations in the common law province.

We will have a document prepared which, we hope, we will have read to you and discussed with you by a member of the administrative staff of the Quebec Relations Board; so that you will have an indication of what is going on in that province as well.

On the miscellaneous items you have statistics on representation votes, because they were discussed in the statistics on the Labour Relations Board; you have statistics on leave to prosecute, determination of bargaining rights, succession to bargaining rights; and as you, Mr.

Chairman, indicated yourself, you have the glossary of terms now before you in committee. On Item D we have requested Professor Polaskin to prepare a summary of the provisions of that legislation or an analysis of it. I regret that I cannot tell you at this moment when it will be available, but we will produce it to you as quickly as it is available.

THE CHAIRMAN: Can you give us some idea from the professor when it will be available?

MR. METZLER: I will see if I can. I can tell you tomorrow.

Inherent in the production of these statistics is the reference that Mrs. Grimshaw made to the statistics on time lapse. That is a very important item in these proceedings; and, as I say, we have got that under way and we hope that it will not be too long delayed. Our need was to get the basic statistics before you. I think the work is pretty well done on it.

THE CHAIRMAN: Thank you.

MR. JACKSON: Mr. Chairman, may we go through this and ask questions?

THE CHAIRMAN: I think that would be the next thing.

MR. MacDONALD: Report by report.

THE CHAIRMAN: I would think page by page in each report.

MR. WREN: On page 3, Mr. Chairman, . . .

THE CHAIRMAN: Is there anybody who has any questions with relation to page 2 -- that is, on the statistical analysis of operations under the Labour Relations Act?

Does anyone have any questions on page 1?

MR. SPOONER: What is the purpose of our questioning at this time?

THE CHAIRMAN: Well, to get some further enlightenment from the officers of the department.

We can't expect Professor Finkelman and Mr. Metzler and other officers of the Department to be here every day, because they have other duties to perform; and we will, so far as we can, try to conclude our questioning of them for whatever further information we seek on the particular principles of it today and tomorrow.

Are there any questions on page 1? Any questions on page 2? If there are no questions arising out of page 2, what about page 3?

Mr. Wren, you had something you wanted to ask.

MR. WREN: Through you, Mr. Chairman, a question to Mr. Metzler just by way of general information. I gather that there are cases appealed in the United States from the Board to the United States Supreme Court. What avenues are available in this province for appeals to the higher court of law on rulings of the Board under the Labour

Relations Act?

MR. METZLER: I think I ought to refer that question to Professor Finkelman because he can give you a more competent answer.

PROFESSOR FINKELMAN: There is no provision for direct appeal, but there is the ordinary relief of common law statutory review.

MR. WREN: That is, at common law?

PROFESSOR FINKELMAN: Yes.

MR. WREN: But there is no appeal to a higher authority?

PROFESSOR FINKELMAN: The Act provides that there is no appeal -- no review; but whatever common law relief there is available does exist.

MR. WREN: Would you give me an example of common law relief?

PROFESSOR FINKELMAN: An order of mandamus. . .

THE CHAIRMAN: It is in the glossary.

Does that answer your question? There is no statutory provision for an appeal.

PROFESSOR FINKELMAN: I might point this out -- the vice-chairman of the board reminds me -- that a number of cases that go to the courts in the United States deal with the enforcement aspect of the legislation; there are very few on certification or representation issues. The number of cases involving representation issues is very small.

In other words, it is almost impossible to make a direct comparison of the situation in the two countries, because we have very little in the way of what you might call the resistance and defiance of authority under our Act.

MR. REAUME: I do not know whether this is under page 3 or not; it is just a kind of broad question I might ask: In the event of a dispute between two parties, and one party wants the officer in and asks you, or asks the Board, to bring an official in, will the officer come in, or do both parties have to ask?

PROFESSOR FINKELMAN: That is handled by the Board. Every case that goes to conciliation is handled through the Labour Relations Board. There has to be an application to the Board. The application may be made by either party, or it may be made by both parties jointly. If it is made by either party -- if the conditions set out in the Act are satisfied -- the matter will be referred to the Minister, which means that a conciliation officer is appointed.

MR. REAUME: Isn't it a fact, ordinarily, that you have to have the invitation of both parties involved before you ask for the officer to step into the picture?

PROFESSOR FINKELMAN: No; one party -- either party.

MR. REAUME: Well, then, following along that thought, in the event that word comes to the Board that there is a dispute in some plant, why, then, does the Board have to wait before sending in an officer? I mean, when you find the house is on fire why not step in at that point, in the early stages, and put out the fire instead of waiting?

PROFESSOR FINKELMAN: When the house is on fire the conciliation service usually, I believe, sends in an officer on its own initiative; but when a dispute is merging and the parties are unable to reach an agreement then there is a form of procedure under the Act for sending in a conciliation officer; and that is followed.

I think what you are referring to, Mr. Reaume, is probably the situation **they have** in the United States, where you have the conciliation service, or the federal mediation services and state mediation services keeping track of disputes that are likely to break out, and they may send in a conciliation officer without invitation; but I would ask you to remember this, that ⁱⁿ the United States the unions have the right to strike and employers have the right to lockout almost immediately in many cases, except some groups which are affected by the public interest and where the right to strike does not exist, or where it has been taken away unless the parties follow through the procedure set out in the

Act.

MR. REAUME: Well, I know what happens after the strike occurs; but I am just wondering why you couldn't have a man in the employ of the Department to act as a trouble-shooter; and having heard of a dispute in Oshawa, or Windsor, or any other place, you might send that man into the area or to the places involved, and try to put the fire out before it gets a hold.

MR. METZLER: A dispute may not necessarily be in relation to the settlement or terms of a collective agreement, or the settlement or terms of a first agreement; it could be a dispute that ordinarily could be resolved by reference to the arbitration provisions of the collective agreement.

MR. REAUME: Yes, I understand that; but in the case of a small argument that has opened up the influence of the Department over both union and the industry involved often times is great, and you might be able to settle that argument in the early stage rather than wait until it grows and grows.

PROFESSOR FINKELMAN: But it is a question of how much influence, in fact, we are going to have in any particular case.

MR. REAUME: Well, that is true. There are no better ways of settling than around the table, but everyone knows of instances where both sides get up on their high horses and say: "Well, now, I

don't go for it. I don't want an officer in," and they go and stand in the corner, and they get further and further apart all the time. My point is that, before it is burning too much -- before the fire gets hot -- somebody should step into the picture without the invitation of either party.

(Page 440 follows)

MR. JACKSON: How do you propose that be done?

MR. REAUME: I propose that if the Act now does not empower the people to do it, that we amend the Act to give them the power.

MR. JACKSON: I meant the mechanics of it: How would they know?

MR. REAUME: I know the officials of the department very well, and they are competent; they hear and they know.

MR. METZLER: What you are proposing in effect, is that the department should try to run a voluntary mediation service alongside the procedure that has been established, as a compulsory procedure. In other words, normally in this province a lock-out may not occur before all the procedure provided by the Labour Relations Act has been exhausted.

MR. REAUME: We have known a number of wildcat strikes, and I think anything we can do here or any place to avoid strikes certainly ought to be done.

MR. METZLER: This matter, as a matter of fact, I think has been discussed at one time or another on the floor of the Legislature, and I believe the Minister, Mr. Daley, was asked at least on one occasion what his position was with respect to an illegal

strike, and I think he very bluntly stated that as far as he was concerned, taking it on the level of the administration of the department, that he would step into any dispute. Any appeal for help, even in the case of a so-called wildcat strike, will not be ignored by the Department of Labour, and we will despatch an officer.

MR. REAUME: I realize that, and I am not being critical, but I want to state one instance: I think it was the Ford strike in 1954 - I don't know which one it was now - but I do remember the two parties got so far apart that there wasn't anybody who would ask for help from a department. I remember approaching you and the Minister, and the attitude of the department at that time was that you would not step into the picture until such time as both sides had agreed, and yet they were as far apart as the hills, and finally, that day, you did send a wire to the president of the union and to the president of the company and invited them to attend in your office, and when that took place it was only a matter of days until the whole argument was settled. I think that was a very excellent move. If you had not taken that step, if you had not taken the bull right by

the horns, at that time, that Ford Motor affair could have grown into something of importance. I say you did a good job.

MR. METZLER: In response to that I may be giving away at least one secret of the trade, and the secret of the trade is that in so far as a conciliation officer is concerned -- what I have in mind is that he must be needed by the parties; they must have an anxious desire to try and settle their disputes. If he were to walk in and were rebuffed by either side, he would be in a rather difficult position to get them to sit down. You in your particular capacity at that particular time contributed to the settlement of the dispute by appealing to the Minister, and the Minister contributed by sending in an officer and calling the parties together.

MR. REAUME: I often think of the picture, which is the same thing, of a man and his wife having an argument: If one sits in one corner and the other sits in another corner and they make funny faces at each other and they don't talk the whole thing over, they finally end up in court. Some kind hearted person comes along and says, "I think are both partly wrong".

MR. YAREMKO: Isn't the point, how

far is the Government bound to more or less supervise or police the relationships of both parties with the province? If you had a format set up in that regard, the Government would be bound on its own initiative to step in at all times, regardless of whether they were invited or not.

MR. REAUME: It appeared to me -- and I don't agree with that: That is only my own thought -- in the event of a strike it is not only the union or the industry involved which suffers.

THE CHAIRMAN: But there can be no strikes until the requirements have been --

MR. REAUME: No, what I am getting at is, you stop all these arguments which, if allowed to go on, will eventually start a strike. I think often times of a Fire Department where there is an inspector going around inspecting things, and if he thinks there is going to be a fire in the house by a faulty wire, or something he tells you to fix it in order to prevent the fire.

MR. MacDONALD: Surely, you can only assess this in terms of and in the light of past history: You can take the example of the union at Hollinger, who have gone into

negotiations in that area within the last week. In the light of the battles that have gone on in the past, say on a check off of union dues, and you may say the smart thing to do is send somebody in there, but the severe stage has not been reached and he may be regarded as an intruder, if so, he is beaten as a conciliator before he opens his mouth.

MR. REAUME: I know of instances in other places that by the time the president walked from Plant No. 1 to Plant No.2, which is only a distance of maybe 100 feet, he did not know, when he walked out of Plant No. 2 that there was a wildcat strike brewing in Plant No. 1, although he had been out of town weeks and weeks, and everybody else knew there was something in there brewing, and if somebody didn't step in, you are going to have a strike, and eventually there was a strike, and that affected the people of Windsor and, indeed, the people of the province, and I think anything we can do to stop this business of strikes, we ought to do it. I don't mean by that, take away from the unions or the worker the right of striking, but I think we ought to do everything we can.

MR. LOGAN: I think there was an old I.D.I. as to disputes, and the terms of an

amendment which had to do with inviting -- "inviting" is perhaps too strong a word -- but to make it possible for the mayor of the city -- I don't know how far it went beyond that -- interested people -- bringing to the attention of the Department of Labour, and under the Disputes Act there was some responsibility to send in someone to look into it.

MR. REAUME: I think that is right. In Windsor now the mayor has appointed a group of people, which I think is an excellent idea -- representatives of the people of Windsor -- who have their ears to the ground all the time, and in the event of trouble, those people hear about it. I have always found when there is trouble that immediately the department enters into the picture they seem to have the influence and they seem to have a way of handling things that is good.

THE CHAIRMAN: But I think they would rapidly lose that influence if they went in without a request from some person?

MR. REAUME: I don't think they go in with a gun or a club. They come in in a very gentlemanly sort of way.

THE CHAIRMAN: Only after they are invited.

MR. REAUME: Well, why, if both sides are stubborn and obstinate?

THE CHAIRMAN: Then you have the question of Government intervention.

MR. REAUME: Well, sometimes Government intervention is not bad.

MR. JACKSON: Would you ask that question of some of the people who present briefs -- if that case ever arises -- if you think there is a need for it. You said "In one instance".

MR. REAUME: I would cite half a dozen.

MR. JACKSON: Yes, but as we hear these briefs, would you bring it out then and see if there is anything?

MR. REAUME: Yes.

MR. METZLER: There is another thing, Mr. Chairman: Mr. Fine will be back with us and will be presenting some more statistics, and if Mr. Reaume wants to pursue this further, I would rest on his experience in this field, and he may give you further enlightenment on just exactly what does occur.

THE CHAIRMAN: Is there anything else on page 3? If not, we will proceed to Section 1, The Operations of The Ontario Labour Relations Board. Are there any questions

arising out of page 5?

MR. ROWNTREE: Isn't it a fact, Mr. Chairman, that on this work of the conciliation officer there is a very close liaison between labour and management with the department as contracts are being negotiated, albeit one party or the other is continually telephoning the department for suggestions, and that sort of thing. Does that happen?

MR. METZLER: It is hard to say just how far.

MR. ROWNTREE: I mean in a healthy way.

MR. METZLER: Oh yes, there is no question about it, we are in touch with the employers and trade unions in the course of negotiations, if there are any matters they may want to discuss.

THE CHAIRMAN: Would it be better to leave this part of it until Mr. Fine is here?

MR. METZLER: Yes, I think so.

THE CHAIRMAN: Are there any questions on page 5? Page 6: Trends In Applications for Certification Filed. Page 7: Any questions on page 7? Page 8?

MR. YAREMKO: Mr. Chairman, on page 8, towards the end of the second paragraph --

"It apparently reflects a broader organizational drive, especially by some unions which up until now have been primarily occupied with collective bargaining activity in areas where their bargaining rights have been well established." The use of the word "area" -- is that a physical area or a field?

MR. FINKELMAN: A field of industry. To give you an illustration of what is meant: For a period of a year or two years a union may conduct a very aggressive organizing campaign. It gets a number of certificates, and then the energies of the officials of that union have to be devoted to making collective agreements, negotiations and so on, and administrative agreements, when they are still in their early stages; a great deal of their energies is devoted to matters of that sort, and during that period of time they may not spend much time organizing, and when this area of operation has been, so to speak, consolidated, they then embark on another organizing campaign. That is what is meant by that paragraph.

MR. REAUME: I wonder if I may ask one question in that respect: Does the Board have anything to do with the brewery workers organizing the milk peddlers? You

know what I mean?

MR. FINKELMAN: Our answer is that we do not look into the jurisdiction of the various unions except in cases where there is a craft application under Section 6, subsection 2, I believe it is, of the Act. If we were to get involved in jurisdictional disputes, we would have to appoint as many members to the board as there are members of the Legislature.

MR. REAUME: I was wondering how far you go?

MR. FINKELMAN: Our feeling is that we cannot go at all.

MR. WREN: What consideration is given to an application for certification where an applicant organization, or the principle persons involved, has in his back pocket a charter? Is there any investigation made about the field of activity?

MR. FINKELMAN: I don't recall any case of that kind arising since I have been associated with the Board.

MR. WREN: Haven't any been brought to your attention?

MR. FINKELMAN: No.

MR. REAUME: I could bring one to the attention of the Board.

MR. WREN: I could too, later on.

MR. FINKELMAN: I am not aware of any cases of that sort.

THE CHAIRMAN: Is there anything else under that paragraph gentlemen? Page 8: Disposition of Certification Cases, 1955-56 and 1956-57.

MR. WREN: In that case I have been asked to ask a question about which I have no opinion. In a certification of unions and disposition of certification, to what extent are the economics of the situation considered; that is to say, let us suppose an industry might present some opinion that if the industry were organized, that the problem of the wage rates would have something to do with competitive prices: Is that or isn't that a consideration?

MR. FINKELMAN: It is not a consideration in the present legislation.

THE CHAIRMAN: Is there anything else arising out of page 8? Page 9? You will notice on page 9 there is a note that data on the more complete industrial classification is currently in preparation, and is to be made available in the near future. Is there anything on page 9?

The first paragraph on page 10:
The Incidence of Votes in Certification Cases?

MR. MacDONALD: Mr. Chairman, how frequently does it happen that the Board calls for a vote even when 55 per cent of the names have been secured?

MR. FINKELMAN: Generally speaking, there would be two circumstances: The first would be where the union seeking to displace in whole or in part an incumbent union, and in those circumstances the vote will always be directed. In the second place, where, subsequent to the filing of an application, a group of employees appear and object to the certification, and a number of persons who have signed cards, and also who have filed or signed the document indicating objection to the application, if there is a sufficient overlapping to reduce that number below 55 per cent, in both those cases there would be a vote. In a third case, where two unions come in at the same time -- two organizations which have no bargaining rights -- if they both come in and both establish that they have the requisite number of members, then there will always be a vote.

MR. MacDONALD: How large a percentage of the 14 per cent in which a **vote** was held would be in that category? Is it fairly small?

MR. FINKELMAN: You mean in all three categories?

MR. MacDONALD: Yes, where a vote is ordered, but it is way over the 55 per cent. You indicate here, "In both years, in only about 14 per cent of the certifications granted, did the Board consider it necessary to conduct a vote ..."

MR. FINKELMAN: We will have to get you a breakdown of that.

MR. MACAULAY: Mr. Chairman, I am sorry, but I am trying to read this as fast as you go through it, and it is a little difficult, and you may have answered this question, but I was wondering what percentage of the votes that are held actually result in no certification.

MR. FINKELMAN: That is contained in the statistical tables; it is Table 5 on page 10 of the statistical tables. In cases where votes are directed, there is a 30 per cent dismissal rate.

MR. MACAULAY: Where votes are directed, 30 per cent of the votes directed result in no certification?

MRS. GRIMSHAW: What was it you were asking?

MR. MACAULAY: Say in one year

100 votes are ordered, what per cent of those votes end up proving there should be a certification, and what per cent of them establish that there wasn't a sufficient number in support of the application to warrant certification? It would not appear to me -- although I was in haste when I read page 10 -- that it was disclosed on that page.

MR. FINKELMAN: It would be very difficult to break that down on the figures we have, because we would have a situation where there is an attempt to displace an incumbent union in whole or in part. There may be a dismissal of the application there, but the bargaining rights of the incumbent in some of those cases has been maintained.

MR. MACAULAY: I was wondering where there was an application where there has been no bargaining agent certified either.

MR. FINKELMAN: We will have to get you those figures.

MR. MACAULAY: I would be accommodated, particularly where there has been no union or no bargaining agent certified and a vote has been ordered, and I would wonder just what percentage of those votes prove that there was no sufficient number or that there was a sufficient number in support of it.

MR. FINKELMAN: We will get you those figures. We are having an analysis of both figures prepared, and we will present it at a later date.

MR. MACAULAY: One other thing in relation to these votes, and I have no opinion on the matter at this stage: I am wondering, is it your view that the legislation as it is set up gives ample opportunity in a place where there is no certification needed, gives ample opportunity for those who might wish to oppose the application, opportunity to come before your Board?

MR. FINKELMAN: I do not think there is any Act in Canada that gives a greater opportunity for opponents to come forward.

MR. MACAULAY: Well, that is not an answer to the question.

MR. SPOONER: I would like to develop this matter a little more fully. An application is made by a union, and I have in mind particularly in the timber operations of the North country, and an application for certification is made, and it is opposed by, we will say, the employer, or opposed by any group of employees, and in due course of time a vote is ordered: When the vote

is ordered, it may be in the Spring when the number of employees have been greatly reduced. Is it a fact that the list of eligible employees **are** the employees who were on the job at a certain time when employment was at its highest?

MR. FINKELMAN: It is not so.

MR. SPOONER: Well, let me finish that. Does it have the effect when the vote is held that those employees who are not there to vote are counted as a negative vote?

MR. FINKELMAN: No, that is not the case. Where you have what we call a build-up situation, that is to say, the application is made in seasonal industry when the working force is at a very low ebb, the Board will not fix the date as of which the list is to be frozen, at that time, but will order the vote at some time, to be fixed by the Board at an appropriate time in the future when there is a proper representative working group there. The parties will then report to the Board every two weeks, and we watch that report and see how the working force is being built up, and when it reaches the stage where one or other of the parties think a vote should be taken, they will let us know, and we will communicate with the other party, and if there is agreement on the date the list shall be frozen, we will issue our directions for

that time. If there is disagreement, we may well table it to hear representations. So, a vote will always be taken when you have a representative working force at the place.

MR. SPOONER: How much time elapses from the date when the list is frozen until when the vote is held?

MR. FINKELMAN: That depends on how well the parties sit down and try to make arrangements for the vote. We try to push them along. It should not take more than a couple of weeks at the outside.

MR. SPOONER: What is the effect on the results of the vote if an employee does not vote -- an employee who was on the list?

MR. FINKELMAN: If he does not vote, under the legislation at the present time, for all practical purposes, he is deemed to have voted against the union. To put it the way you put it earlier, the persons absent from their employment on the date of the vote are not included in the eligible voters. It is provided for in the Act under Section 7, subsection 4. That section reads as follows: "In determining the number of eligible voters for the purpose of subsection 3, employees who are absent from work during voting hours and who do not cast their ballots shall not

be counted as eligible."

MR. YAREMKO: If he has ceased to be an employee on the date on which the list was frozen and the date the vote is held, his name is deleted from the list?

MR. FINKELMAN: It would depend on the circumstances: If he has been let out for cause, or has quit voluntarily, his name will be removed from the list of eligible voters, but if he has been fired for union activity, the Board may have to have a hearing to determine whether his name should be retained. If the claim of the union is that he should have been entitled to vote, but was improperly discharged, he will be permitted to vote but his ballot will be segregated until the Board has reached a conclusion as to his eligibility. If he is eligible his name would be added to the list and the ballot would be opened and counted. If he is ineligible, he is not on the list and his ballot would be destroyed.

(Page 458 follows)

MR. REAUME: That is the same as being fired.

MR. YAREMKO: Not if he is being fired for cause, but because they have reduced their working staff.

MR. FINKELMAN: Well, it would be open to the union to complain that the reason he was let out is an improper reason, but if the staff has actually been reduced then he has been let out for cause.

MR. SPOONER: There has been some confusion in regard to this particular section of the Act among certain unions operating particularly in the lumbering industry, and I hope during the course of the session that we will have representation from one of these unions to discuss the matter.

THE CHAIRMAN: Is there anything else?

MR. MACAULAY: May I ask you, Professor Finkelman, is the reason why these lists are frozen ahead of time -- this may show my naivete -- but is to avoid discharges and dismissals that people might otherwise vote one way or the other at the time the election takes place?

PROFESSOR FINKELMAN: Primarily that is the reason, but in any election you have to freeze the list if you are going to have a proper vote.

MR. MACAULAY: Except, I was thinking, why could it not be frozen as of the date the vote is held?

PROFESSOR FINKELMAN: You have to make up your list and if you start making the list up on the day the vote is taken you are in an awful mess. To give you an illustration, International Nickel, one of the largest votes that we ever had -- there were ten thousand eligible voters. We spent off and on in 1943 almost six weeks arranging that vote. This is a larger vote than you have in a good-sized town and we had a staff of thirty-three returning officers working around the clock. We had to take the vote of people coming out of the mine in an hour. You have to freeze a list of that sort in order to check the eligibility if anyone comes up, and I do not think it is possible to challenge in advance; you are not going to be able to do it.

MR. MacDONALD: Let me pursue that further. When you present the case of as large a group of workers as International Nickel your case looks strong, but is there not an analogy in our local vote proceedings in an urban area? In an election the votes are frozen at such and such a date, but in a rural area they are never frozen. A person can be sworn in on election day if you have someone who is a bona fide resident of the community. Now, in such cases where you have not got the necessity there are members of the workers who are going to have a chance to vote, would it not be possible to introduce a greater degree of flexibility without any

unfortunate factors creeping in, to have checking procedures that any man who comes in he is a legitimate worker, he is on the payroll. Therefore, he has a right to vote whether his name is on a list that was filed one, two or three weeks earlier?

PROFESSOR FINKELMAN: It rarely happens that you have much of an interval between the date the list is frozen and the day when the vote is taken. In the second instance, the only persons who can properly say whether a person is eligible or not eligible would have to be a senior union official or responsible officer of the company, and we try to keep them away from the voting. You have to watch your procedure to find out whether a certain person is eligible or not eligible. There is a question of all sorts of eligibilities that might arise in any vote. Where you have the list frozen the representatives of the parties in advance determine who is eligible to vote and who is not, and if there are any changes they challenge those people. The matter may be settled in advance by the registrar or the Board or a direction on segregation, some authorization is given to the returning officer. If you leave all this to be settled in a small vote, even if the returning officer goes up to check up, you would have a chaotic situation. You must not forget the need for secrecy. It is very, very great, and we try as much as possible to keep away from segregated ballots because if it is very tight and

you have to rule on eligibility of voters it is inevitable that the people voting, the way people voted, is likely to be disclosed and then there is the overriding reason that Mr. Macaulay touched on before -- if you settle your list two weeks in advance the employer says, "I had to hire twenty-five additional employees." Now, he may do that, and there is no way of checking on him. We have found over the years that the most satisfactory way of doing things is to freeze the list as of a certain day, everybody can challenge anyone who is ineligible, an order can dispose of the issue and we have a reasonable vote. I cannot recall any serious criticism that has been advanced of that system of procedure.

MR. JACKSON: Mr. Chairman, am I right in assuming that there is no legislation now -- there is nothing in the Act concerning the time after the list is frozen that an election must be held?

PROFESSOR FINKELMAN: No, that is all procedure.

MR. MACAULAY: That is purely discretionary, isn't it?

PROFESSOR FINKELMAN: I suppose you might call it discretionary in a sense, but I can assure you that votes are held as soon as possible after a decision is rendered and there have been many cases where the officials of the Board have had

to camp on the trail of both parties to get a vote arranged.

MR. JACKSON: Would it help any if there was legislation to speed that up? Is it a problem?

PROFESSOR FINKELMAN: I do not think so. We have to just rise to the needs of a particular situation.

MR. JACKSON: You do not think anything would be gained at all?

PROFESSOR FINKELMAN: I do not think so.

MR. MACAULAY: Well, this time sheet, or whatever it is, that you are preparing, would it give any indication of the length of time that elapses between the filing of an application for certification in a new certification and the time by which the normal deflection of time would have brought out a decision of the vote?

PROFESSOR FINKELMAN: We were not thinking of giving you statistics on that because the statistics would have to be qualified by all sorts of qualifications. If you desire it, it can be produced.

MR. MACAULAY: What is the minimum time?

PROFESSOR FINKELMAN: Two weeks between the time an application would be filed with the Board---

MR. MACAULAY: Between the time an application would be filed with the Board, it was heard and then the time to hear it or the freezing of the

list and ---

PROFESSOR FINKELMAN: I am not speaking of a vote because I am speaking of a routine case. In the normal case it is listed two weeks for hearing from the time it comes in. If our list is not unduly heavy on that day it will frequently be executed on that day or the following day or that week, so that many cases are disposed of in anywhere from fourteen to seventeen days from the date of filing. I would not say that is true of every case, and where there is a vote obviously there is more time taken; where an examiner has to be appointed more time is taken; where they are lengthy briefs there is more time taken.

MR. MACAULAY: Would you give any indication of the time involved after that sixteen -- fourteen days -- before a vote is held and the result is made known. In this ten thousand vote, that is not common, surely, but giving an indication to a person such as me who does not know; is there any way of indicating that?

PROFESSOR FINKELMAN: I would not say that this is an accurate calculation, but if you have a routine case which presents no unusual difficulties we hear it within two weeks from the date of filing and we order a vote, and if the parties cooperate the vote can be taken within ten days, two weeks, thereafter. A report is then issued to the parties and after the seven days within which they may take

exception to that report, and immediately upon the lapse of seven days plus one or two, depending on the area in the province in which the company happens to be located, to take care of incoming mail, a certificate may be issued or a dismissal as the case may be.

MR. MACAULAY: That is about a month and a half then?

PROFESSOR FINKELMAN: The result would be known within about four weeks perhaps.

MR. MACAULAY: Thank you.

THE CHAIRMAN: Is there anything else on page 10?

MR. MACAULAY: It follows over onto page 11 and I would like to ask, what do you mean by "a case may also be dismissed without a vote because the application is untimely" -- what does untimely mean?

MR. FINKELMAN: Untimely means that the time limit set by the Act, an application may not be made say within ten months of the day of a collective agreement.

MR. MACAULAY: You do not mean propitious?

MR. FINKELMAN: No. What we mean is that it is premature, that prematurity has developed a term and we become commonplace and part of the procedure is timeliness.

MR. MacDONALD: Close to the top of the page it says:

"In fact, those cases which
"are dismissed without a vote because
"the applicant has failed to meet the
"minimum 45 per cent membership re-
"quirement do not bulk very large in
"the total of cases dismissed without
"a vote."

You have sort of drawn a conclusion that they do not bulk very large and I am wondering whether that conclusion is necessarily valid because to get its full validity you would have to have a number of attempts to organize where they have not got the Board and it has to go before the Board?

PROFESSOR FINKELMAN: We are dealing only with the relevant proportion of our work.

MR. MacDONALD: I realize that, but this 45 per cent, I know in some circles there is an argument advanced that the 45 per cent is too high. In looking at that question it would not be right to draw the conclusion that they do not bulk very large because there may be four or five times as many that are not presented to you at all.

PROFESSOR FINKELMAN: We have no way of getting information on that. Perhaps I should add this further comment in that connection: under

P.C.1003 it was possible in some situations to direct a vote where the union had less than 50 per cent, and I cannot give you a statistical breakdown of the cases, but the impression I have is that there were relatively few cases in which a union/^{that} had less than 45 per cent ever succeeded in winning a representation vote. That was the basis upon which this section was arrived at.

MR. WREN: In the same section it says here~~in~~ in the concluding sentence in the first paragraph on page 11:

"If an applicant should ask
 "leave to withdraw after a vote, the
 "Board will, in practically all such
 "situations, deny the application
 "for leave to withdraw, and dismiss
 "the case."

What would be some of the reasons why you would deny?

PROFESSOR FINKELMAN: Where a union has made an application and has less than 45 per cent which entitles it to a vote, we direct that a vote be taken. If a vote should be held and the union loses the vote then in general -- this is not an invariable rule -- but in general the Board will attach to its decision a rider that no further application can be made within six months from the date of the dismissal to avoid further

harassing of the employer. If we had merely withdrawn it they could have come back in again immediately.

MR. REAUME: Tell me, what happens in the event that two unions try to gain bargaining rights with a company, certain employees in some instances sign cards with one union and then a day or two afterwards sign cards . with the other union? Which card to you count as the valid one?

PROFESSOR FINKELMAN: Both ways, they want the best and they get it and then they are given an opportunity to have a secret ballot, and that is the final answer.

MR. REAUME: The only answer, I think.

PROFESSOR FINKELMAN: I would say with deference the only answer.

MR. REAUME: Where you are coming across a ---

PROFESSOR FINKELMAN: If there are two unions which have requested the 45 per cent, there will always be a vote, and then we have the finality of the vote and they cannot change their minds after that.

THE CHAIRMAN: Anything else under that section? Page 11, "Terminations" -- any questions?

MR. WREN: How does an employer apply for a termination?

PROFESSOR FINKELMAN: The only right an

employer has to apply is under either Section 42 or Section 43 of the Act. Section 42 deals with the cases where the certificate has been obtained by fraud and Section 43 is in those cases where the union, having been certified, simply sits back on its haunches and does nothing to protect or further the interests of the employees, does not attempt to bargain.

MR. SPOONER: What happens in the case of a union that makes no attempt to negotiate?

PROFESSOR FINKELMAN: The same thing applies. Perhaps I should read Section 41. If you look at Section 43 of the Act, Section 43 of the Act -- it is set out at length in the summary of the Act that I presented to you the last time I was here:

"Where a trade union that has
"given notice under Section 10 or
"Section 38 or that has received
"notice under Section 38, fails to
"commence to bargain within sixty
"days from the giving of the notice,
"or after having commenced to bargain
"but before the Board has granted a
"request for conciliation services,
"allows a period of sixty days to
"elapse during which it has not sought
"to bargain, the Board may, upon the

"application of the employer or of
"any of the employees in the bargain-
"ing unit and with or without a repre-
"sentation vote, declare that the
"trade union no longer represents
"the employees in the bargaining
"unit."

And even if it starts bargaining and then lets an interval of two months go by without further bargaining the same thing applies.

MR. REAUME: Is that Section 41?

PROFESSOR FINKELMAN: Section 43,
subsections (1) and (2).

THE CHAIRMAN: Anything else on page 11?

MR. METZLER: On the paragraph on Terminations, the seventh line, it should be "carried over from the previous fiscal year". The word "previous" should be there.

THE CHAIRMAN: I have written that in. Page 11, under Terminations, the seventh line down should read "with the six carried over from the previous fiscal year." Any further questions on pages 11 and 12 dealing with Terminations? Page 12, Successor Status Applications.

MR. MACAULAY: These successor status applications have not anything to do with change in management? This is a problem of amalgamations and unions?

PROFESSOR FINKELMAN: Amalgamations or transfer of jurisdiction -- there is nothing in the Act to cover that other situation.

MR. WREN: I do not know whether this is the right place to ask this, but in successor status there is something that bothers a lot of people; what, if any, application or what jurisdiction would the Board operate in in case of trusteeship in unions? For instance, let us assume some particular union has bargaining rights for a single industry in a particular town and that union comes under trusteeship, long distance trusteeship, does that affect the relationship of that local, that union, as far as the collective bargaining agreement is concerned and the Labour Relations Board? In other words, does the trustee make any application to be a successor?

PROFESSOR FINKELMAN: No, there is nothing in the legislation covering that situation at the present time.

THE CHAIRMAN: Is there anything else on the successor status application? Do you want to give us some further information on that, Professor Finkelman?

PROFESSOR FINKELMAN: I would like to read to you a section from the Decision of the Board in a case in which this problem was brought to our attention. This is the McCord case and

it involved the Teamsters' Local Union No. 230, and this was the Board's decision of December 29, 1956, in which we said in part:

"While we are of the opinion
"that prolongation of a period of time
"during which the affairs of a union
"are administered by a trustee may not
"be a desirable state of affairs,
"nevertheless we have reached the
"conclusion that a local trade union
"which has been placed under trusteeship
"is a trade union for the purposes of
"the Labour Relations Act."

MR. WREN: My point there is a situation which has developed where some have gone into trusteeships, where trusteeships have been assumed or control has been taken of locals by nothing else but sheer fraud. I think we should give some consideration, seeing to it that any trustee that takes over a bargaining union which has to do with the administration of collective bargaining in this province should have to go to the Labour Relations Board. I am not very happy about the present situation; in some cases it is fine, but I know of instances where very devious means have been used to take control of the union, and the resulting effect -- the bargaining which followed -- has been disastrous, and it was no fault of the people who

negotiated the initial bargaining agreement.

MR. MACAULAY: The solution must lie in this successor status. I think this is a serious problem and I think we will have to discuss it at some stage, and this may be a good place to look at it.

MR. WREN: I do not see why a craft union, for instance, should have to go through all the processes of the Labour Relations Board to become a successor. I am not saying they should not, but I do not see why a craft union should have to go through those processes when a trustee may take over a union without going through those processes at all. I think it is most dangerous to our trade unions in Canada, at least.

MR. MacDONALD: Is not your objective here to protect the bargaining rights of the membership? For instance, in some cases unions have been taken into trusteeship because one of the union officers is on some occasions -- there is some question about his handling of the funds. Now, if in effect the whole bargaining right goes out the window because of this one situation, it seems to me you are destroying a basic right needlessly. I think Mr. Macaulay is right, where you do not have certain time limitations on the length of the trusteeship.

MR. MACAULAY: A maximum.

MR. ROWNTREE: Or accounting of the money, do you agree with that?

MR. MacDONALD: For the moment I do not get the full ramifications so I will not agree or disagree.

MR. MACAULAY: Take it under advisement.

THE CHAIRMAN: No doubt this particular aspect of the problem will be discussed at length and no doubt some of the briefs will be presented to us and we will have the opportunity of discussing it with those who present the briefs.

MR. WREN: I just want to know about it now -- if any application had to be made.

THE CHAIRMAN: Apparently the answer is No. Page 12, Applications for Declaration of Unlawful Strike.

MR. MACAULAY: Would you say that those applications which have been made are made as an arm in the bargaining process by -- I guess it would only be by the employer?

PROFESSOR FINKELMAN: I would not venture to hazard a guess as to the purpose which motivated the persons who filed the application. All I know is they were filed and the procedure carried on, and in the opinion of quite a number of people with whom I have discussed the matter it is very effective.

MR. MACAULAY: The fact is, two-thirds of them were withdrawn, by your figures.

PROFESSOR FINKELMAN: Were settled.

MR. YAREMKO: Were the issues settled

at or about the time of withdrawal?

PROFESSOR FINKELMAN: Before the withdrawal.

MR. YAREMKO: The issues were settled before the withdrawal?

PROFESSOR FINKELMAN: I would say in almost every case the strike was settled and the withdrawal later came in, almost the next day, or there was a wire sent.

MR. MacDONALD: If two-thirds of them are withdrawn because of settlement it would seem to substantiate the suggestion that it is just a technique in the collective bargaining procedure.

PROFESSOR FINKELMAN: As I say, I would not venture a guess.

MR. ROWNTREE: I do not think that is a fair observation or conclusion. You are just taking the figures, and, repeating what you said about half an hour ago, you have to look behind the figures and study the factors that went into the situation. When we are talking about an application for declaration that a strike is illegal it suggests that there has been a strike before the provisions of the present Act had been complied with. The same would apply in reverse in the case of a lock-out. A few minutes ago Professor Finkelman referred us to the provisions of the Act and said

there could not be such a situation in this jurisdiction unless you go through the steps provided.

MR. MacDONALD: I do not want to get into a lengthy argument on this, but on some occasions unions have been forced to take steps which were, strictly speaking, illegal because of actions of management that cannot be nailed down and unions have been forced into it.

THE CHAIRMAN: As I understand it, the Professor is not going to be of any further assistance to us in connection with this matter. Let us proceed on page 13, Applications for Consent to Prosecute.

MR. WREN: In that number of 174 applications for consent, how many of those were for industry and how many approximately were union?

MR. FINKELMAN: I think most of them were filed by employers.

MR. WREN: Most of them?

PROFESSOR FINKELMAN: I could not give you a breakdown at the moment, but I can probably get it for you. When a strike breaks out, for instance, an employer may file an application involving three or four officials of the union, or he may decide to file an application for fifty employees. It is difficult to catch the significance of these difficulties because you have fifty applications filed involving fifty employees in connection with one strike. If the employer instituted a lockout there would only be the one application.

MR. MACAULAY: There are again quite a few withdrawals here. Would it be right to say that many of these withdrawals follow closely upon the settlement of a strike?

PROFESSOR FINKELMAN: I would have to look at the figures to see how many of them were in relation to a strike.

MR. MACAULAY: How many actually go on into the courts? That has always been a sore point with me, as you know, because I have always questioned whether these things should be tried by a magistrate. It is an honest conviction I have, whether right or wrong. Do you know how many go on to the magistrate's court?

PROFESSOR FINKELMAN: We have no record of the number that actually do go on to the court, but we do hear through the grapevine that there is only the odd one.

MR. MACAULAY: So in short the number of withdrawals before your Board, they may all be dropped after you have given consent?

PROFESSOR FINKELMAN: Many of them are settled. In many cases unfair practices are settled on the basis of consent given. For instance, the unions seek to prosecute an employer because he has refused to bargain in any field. We grant leave and the employer then begins to

bargain. However, an employer or a union will refuse to abide by the decision of an arbitrator, and an application is made to the Board, leave is granted and there is no further action because the recalcitrant party lives up to the arbitrator's ideas and it is dropped.

MR. YAREMKO: In 1956 and 1957, then, the 174 applications, out of 150 dealt with only two were granted?

MR. MACAULAY: One hundred and forty-one were withdrawn. It does not mean a lot of them were denied. The Board really did not get down to hearing a lot of them.

THE CHAIRMAN: Gentlemen, it is now four o'clock and we will adjourn until eleven o'clock tomorrow morning.

---The Committee adjourned at 4.00 p.m.

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LEGISLATIVE ASSEMBLY OF ONTARIO

SELECT COMMITTEE ON LABOUR RELATIONS

Committee Room No. 1, Parliament Buildings,
Queen's Park,
Toronto, Ontario

Tuesday,
September 24, 1957

| | |
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| JAMES A. MALONEY | Chairman |
| HAROLD PERKINS | Secretary |

MEMBERS:

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|----------------------|
| G.E. Jackson |
| Donald C. Macdonald |
| Ellis P. Morningstar |
| Raymond M. Myers |
| Arthur J. Reaume |
| H. Leslie Rowntree |
| J.W. Spooner |
| Albert Wren |
| John Yaremko |
| Robert Macaulay |

APPEARANCES:

| | |
|----------------------------------|--|
| Mr. J.B. Metzler | Deputy Minister of
Labour |
| Mr. J. Finkelman | Chairman, Labour
Relations Board |
| Mrs. Josephine
Grimshaw, M.A. | Economist, Ontario
Department of Labour |
| Mr. F. Parmenter, B.Comm. | Ontario Department
of Labour |

THE CHAIRMAN: Gentlemen, we have a quorum and we will start this sitting of the Committee. At adjournment last night we were finished with page 12 of the Statistical Analysis of Operations under the Labour Relations Act and had started on page 13 on Applications for Consent to Prosecute. Are there any questions arising out of Applications for Consent to Prosecute on page 13? In that event we will proceed to Section 2, the Conciliation Services in the Department of Labour, page 15.

MR. MacDONALD: Just as a matter of information, what is the Ontario Labour force now?

MRS. GRIMSHAW: I cannot tell you off-hand. I will have to look it up and give you the information. I have not got the table with me.

MR. METZLER: Mr. Chairman, we can get the latest figures for you in a very few minutes and I will arrange to have one of my people call the National Employment Service and ask them for that information.

MR. JACKSON: Is that all workers?

MR. METZLER: It depends on how you want to frame the question. I will get what you want.

MR. JACKSON: I would like it union and non-union.

MRS. GRIMSHAW: The union figure is 430,000; in 1956 it was 510,189.

MR. WREN: That does not include the

railroads?

MRS. GRIMSHAW: No, you would have to have a figure on the Ontario force in the labour jurisdiction. We have some figures on that in the office if you would like them.

MR. MacDONALD: I noticed in the paper recently the Canadian labour force is supposed to be over the six million mark for the first time, all of which is very interesting when you have a member of the construction industry saying ---

MR. REAUME: Is that the people who are out of work too?

MRS. GRIMSHAW: The total labour force includes the employed and unemployed.

MR. REAUME: Could you break it down now -- we get the total labour force employed and those unemployed in the boundaries of the Province of Ontario.

MR. METZLER: Yes. It depends, of course, You are referring, I would think, to industrial workers, non-agricultural and non-domestic workers. You do not want them because your comparison would be ---

MR. REAUME: Of course, if you added all of them together -- I think we better get it with the exclusion of those.

MRS. GRIMSHAW: You want paid workers?

MR. REAUME: Yes.

MRS. GRIMSHAW: We have estimates of that and we can get it for you.

MR. REAUME: You just have it in bulk, I suppose?

MRS. GRIMSHAW: They do not break it down. The labour force figures are not broken down; there is no breakdown in a detailed way except as of the census dates, but not of the months, because it is too small then and we do not do it. It is just by provinces.

THE CHAIRMAN: Is there anything else on this heading on page 15? Page 16?

MR. MacDONALD: I do not know how relevant this is to our immediate interest, but this sentence at the end of the first paragraph saying that in Ontario the number covered by collective agreements actually declined between 1953 and 1955 ---

MRS. GRIMSHAW: Very slightly, yes. I will get you the 1953 figure and that is 476,000, if I remember correctly. I will tell you more accurately later, but the figures published by the Federal Department of Labour showed somewhere around 480,000 in 1953 and it is down a bit to 476,000.

MR. MacDONALD: Was there any apparent reason for that?

MRS. GRIMSHAW: Well, I do not know. You would have to sit down and analyse it

to a pretty fine detail to see what we discovered. I would not like to say offhand. It would take a bit of analysis.

MR. MacDONALD: It strikes me on the surface as being a very strange kind of situation because it was a fairly consistent climb. I was wondering if there happened to be a coincidence of consolidation rather than expansion, whether Professor Finkelman recalls in the history of the kind of work coming before the Board, if there is any apparent reason?

MR. FINKELMAN: We would not have any information on that.

MR. REAUME: I can name one reason -- the automobile industry is cutting down and the workers there are now finding themselves in employment that is unorganized. That would be one instance of that, and it may apply in other instances.

MR. METZLER: It may have something to do with seasonal industries. You may find that there is less bush operation going on, and, therefore, less employment in the bush. I am not stating this as a fact. I am pointing out that this could occur, and, of course, I suppose it is hard to say that a man who is leaving the bush and has gone into another industry has maintained his union connections.

MR. MacDONALD: These are years of

decline. For instance, in the farm machinery industry.

MR. METZLER: Yes.

MR. REAUME: That is going to be all right. Ottawa has okayed it.

THE CHAIRMAN: Is there anything else arising out of page 16? Page 17?

MR. WREN: Page 17, Mr. Chairman, midway down the conciliation process there is a sentence that says:

"While it is true that all applica-
"tions for conciliation must be made
"in the first instance to the Labour
"Relations Board, the Board acts pri-
"marily as a screening agency and does
"not itself conciliate."

I am interested in knowing to what extent the screening is carried out, what type of screening do you do?

MR. FINKELMAN: Every application for conciliation is made formally to the Board and sets out the grounds on which the applicant seeks conciliation and his entitlement to conciliation. One of the clauses that we would have to check on would be whether the union, which is the applicant, is the one which is entitled to seek conciliation. Another thing would be whether the application is timely, whether it is made within the proper time. For instance, if there is an agreement that an

agreement with an automatic renewal clause, a provision in the agreement which says unless notice is given for a certain period the agreement automatically renews itself and the application is made after renewal, there is no conciliation there. It would be conciliation during the lifetime of an agreement which is not provided for under the legislation. It may be that an agreement has not run for the minimum period of ten months. It may be an agreement is for six months, and under the Act such a thing is for a period of one year, if ~~in~~ due course it was applied for one or two months after the thing was entered into.

Now, another sort of screening is where the parties have met and bargained. From time to time we get cases in which the union has given notice and the employer has not met with the union, and if there has been no meeting at all we will usually direct the parties to sit down and bargain again. From time to time an employer says, "I did not receive proper notice at all", or "I did not receive any notice at all". Sometimes the employer says, "There has not been enough bargaining, there has not been stalemate reached yet". We investigate that sort of thing. That is the sort of investigation we make. (a) Where an applicant is entitled to relief asked for, namely conciliation; (b) where the applicant is within the time limits

set by the Act, and (c) where there has been a minimum of bargaining at least.

MR. REAUME: Is there any specified time at all in which the Board must hand in a report?

MR. FINKELMAN: You are talking about the Conciliation Board now?

MR. REAUME: Yes.

MR. FINKELMAN: That is not in my field.

MR. METZLER: Yes, there is. The Act specifically states that the Board should report to the Minister fourteen days, I believe, after the appointment of the chairman of the board. I will refer you to the statute which is statute No. 27:

"(1) A conciliation board shall,
"within fourteen days from the appoint-
"ment of its chairman, report its find-
"ings and recommendations to the
"Minister and the report of the majority
"shall be the report of the board."

Now then, if you look at subsection (2):

"(2) The period mentioned in sub-
"section (1) may be extended by agree-
"ment of the parties or by the Minister
"upon the advice of the Conciliation
"Board that agreement may be effected
"between the parties on the matters
"referred to the Board if such period
"is extended."

It can be extended.

MR. REAUME: Well, if the report is handed in to the Minister, is there any specified time that he has to act?

MR. METZLER: To release it?

MR. REAUME: To put it into actual effect?

MR. METZLER: These are recommendations and the requirement is that the Minister shall release the report forthwith to the parties. I actually handle that for the Minister and our practice is that if we get it in today we try to get it out by four o'clock in the afternoon. It goes out in the same mail.

MR. REAUME: The point I am making is that in the building industry, for instance, if they place the application and appoint a board, before the board makes a report and the Minister acts on it the job is done and the contracting firm is hundreds of miles away and the thing just dies. Is there anything that can be done about things of that sort?

MR. METZLER: You must remember these are only recommendations; they have no binding effect upon either party, neither the employer nor the trade union has to accept the recommendations of the board. If the board settles the matter, of course, that is the end of the situation, but if it does not then it reports its findings

and its recommendations on the dispute to the Minister who forthwith releases it to the parties. There is nothing binding upon either party to accept the recommendations.

MR. REAUME: What I am trying to find out is this, is there anything that we can do, for instance, in the building trades where they have a dispute, a board is appointed, the Minister prepares a report and hands it in and the thing is delayed and delayed and delayed until such time as the job is finished, the firm in question packs up its tools and goes away? Is there anything we can do in instances of that sort?

MR. METZLER: I have not any specific recommendation that I can make to you.

MR. REAUME: I think it is an important thing, is it not?

MR. METZLER: Professor Finkelman points out to me, and I agree, that in many cases we won't appoint a board. In such cases we feel that the parties -- we have made the best effort we can through the conciliation officer, and rather than let the thing be protracted by a board, because we feel a board appointment would serve no useful purpose, we just accept the recommendation from the conciliation officer with no board to be appointed. We notify the people to that effect and then they are free at the end of seven

days after that to take whatever action they deem proper.

You are dealing with a peculiar type of situation when you refer specifically to a job. In the main, for instance in the Toronto Area you have general negotiations between possibly a builders' exchange in certain instances and the trade union. For instance, the bricklayers or the carpenters in Toronto are a good example. These people sign a contract through the builders' exchange, but there is a certain stability of the situation, nobody is going anywhere, they are still going to be doing business right in this area and there is not any doubt as to how far the jurisdiction of the trade union goes in respect of that group of contractors. Now, that is a fairly stable situation, but where you get onto a situation such as you described, I am sure that Professor Finkelman will bear with me. You could have difficulty in connection with that. Somebody could go in on a localized job, the building of a school or with one industrial undertaking in a particular locality. The contractors go in, the union starts and maybe carries on a campaign. It then applies to the Board for certification. Now, I know that the Board is extremely anxious to see that those types of application are pushed as fast as they can possibly be pushed because we do not

want these things hanging in the air; if there is any relationship to be established then let us get down to business and straighten it out, find out one way or the other. Now, that may take a period of time before you get down to conciliation because the situation has advanced another step now. It may very well be ---

MR. REAUME: Just going on from there, it happens that one job -- the man is doing the job, the builder -- he goes to Hamilton from Windsor and then it happens in Hamilton again and then he moves to Toronto and elsewhere.

MR. METZLER: It could be, but I think that a contractor moving into an area where the jurisdiction in the construction trades and the trade unions is pretty well established will have to conform to the basic requirements of the area.

MR. REAUME: I think that is true, but I say if it happens by the time it goes to the Board and the Minister acts the job is done and the people are gone.

MR. METZLER: It could be.

MR. MacDONALD: I have heard this complaint from unions about not getting a union certified until the job was over and the whole thing had folded its tents and gone, so to speak. Is this very prevalent?

MR. FINKELMAN: I would not say so but it

does occur from time to time. The contractor is building a service station in St. Catharines; for instance, his head office is in Toronto, and I am thinking of one specific case. Under our procedure it is almost impossible to hear the case, to have the union organized, to have the application filed, to hear the case and dispose of it before the station is finished because the whole thing may take three weeks to complete. Even if the application for certification is made on the day that the job begins it is very difficult to get certification and conciliation, it is impossible to get certification within that three weeks' period.

There are some jobs of that nature. Not very many, but there are some jobs of that nature and I do not know how under the legislation as it stands at present it is possible to deal with them any more expeditiously than we have. We have been toying with the idea now that there are two panels of the Board to shorten the time for construction cases but it has been impossible to get the Board organized on that basis up to the present time.

MR. JACKSON: Purely as a matter of seeking information, on a job that would take three or four weeks in a locality, why would the union want to be certified on that job?

MR. FINKELMAN: You will have to direct

your questions to the union when they come in.

Construction unions know why they want that; I would not know.

MR. REAUME: I can think of one reason why. I know of instances where builders from different provinces have stepped into the Province of Ontario and brought their own help with them and not paid them the union scale of wages, and that is one reason why they want to step in.

MR. JACKSON: Is that wrong?

MR. REAUME: Yes.

MR. JACKSON: Why?

MR. REAUME: For instance, if you just take the case of the city where I come from. That is a high rate and we would have fourteen thousand people at the moment unemployed. I do not think we are going to stand idly by and see some people from other provinces moving in in their trucks and with trailers, /people from other provinces that pay far less wages than our people at home have to pay, and we are opposed to that -- have always been opposed to it.

MR. JACKSON: Without conceding that your wage is too high?

MR. REAUME: Well, I did not say that our wages are too high. I say that the wages the other people are paying are too low.

MR. MacDONALD: How would Mr. Jackson

get a decrease in living so he could live on that smaller wage?

MR. JACKSON: The other people are coming in and doing it.

MR. MacDONALD: They are only there for a short time and then move. While he is working in Windsor he has to live on a lower wage at a higher cost of living.

MR. REAUME: Of course, if we are going to pursue a course now that the working force in the Province of Ontario are overpaid, I think we are going along the wrong track.

THE CHAIRMAN: I do not think this Committee has anything to do with rates of pay.

MR. JACKSON: I was just trying to get the thinking.

MR. METZLER: Mr. Chairman, I think that Professor Finkelman might point out to you at least one development that has occurred in connection with the construction industries that in part does take care of the situation Mr. Reaume mentioned. Sometimes the specific type of situation that he is talking about is what you call certification for a project. There is another aspect of this thing where we have what we call area certifications and that may be of assistance if Mr. Finkelman would say a word on that.

MR. FINKELMAN: Generally speaking, the

union in construction trades will depend on the circumstances of the case and we have three rules that we follow in most cases, although not invariably so.

If the application for certification is made by a union at the place where the employer has his head office or some sort of permanent office, then the certification will be granted for an area. If his office is in Toronto it will be in Metropolitan Toronto or in Hamilton or some area, say, fifteen miles from the City Hall of a particular town.

If the application is with respect to a project, or rather if an employer has his project in an area in which he has never been before, the usual practice is to certify for that particular project -- the high school or post office or Bell Telephone building, or whatever it may be in that particular town. If the employer returns two or three times to that area this certification will be in terms of area again so that gradually there is a spreading of the certification for employers who continue in business projects from areas and locations. It is a slow process and in part it may be the answer to Mr. Jackson's question that the union will apply for one project and another project in that area in the hope it will eventually be able to get an area certification.

We have granted in a number of cases province-wise areas, but those have been very rare.

MR. YAREMKO: I gather that you have in an informal way been pushing certain -- or assisting in the pushing of certain applications. Would it not be possible to set up a formal, expeditious procedure that the parties on an application would first prove to the Board that this was an instance in which the application should be dealt with very quickly? It would be sort of a preliminary hearing to indicate to the Board on the evidence produced that there was such-and-such a job, it would take six weeks to complete that particular job, and that if the ordinary course was followed certification could not be completed and as a result you would give them the opportunity to apply under sort of a craft programme of getting an application through?

MR. FINKELMAN: Mr. Yaremko, when the application comes in a copy of that application is sent to the employer to notify him that the application has been made. He is also sent documents for posting to advise employees of the application so that any employees who wish to object are given an opportunity to do so. After you take the time to mark that application, a reasonable time for the parties to formulate their reply and to come down to Toronto for the hearing, you cannot cut it down much below fourteen days. As I said, with our panel system we may eventually

be able to cut down construction cases by one or two days but I cannot see how it would be possible to cut the certification time down using our present procedure much below, I should say, ten days, if we can succeed in doing that.

We have to take into account that business is now operating on a five-day week and that means you lose two days every week in the processing of applications, mailing and so forth, and even if you were to cut it down by another two or three days you still have conciliation to contend with., If the parties want to make an agreement they could make an agreement with the assistance or intervention of a Board in conciliation or certification, but it is a case where there is a responsibility on the part of the union or responsibility on the part of the employer, and they may have to resort to conciliation. You have to have certification there, at least under the present Act, and I do not see how you could cut the time down very much or that the cutting down of the time of certification is going to accomplish very much. You will save three or four days, that is all. If you are going to have a preliminary hearing such as you suggest, you can have the hearing at the time. You are going to have to have the employer appear at a preliminary hearing and it is pretty difficult to cut the time down under our procedure to any more than about

ten days.

MR. REAUME: I have often wondered if the reason that it was held up was because you are so short of help in the Department or in connection with your Board. I do not say that is the reason but I just wondered if it is because you are undermanned.

MR. METZLER: Mr. Reaume, I can say this to you and I think I say it advisedly, that Professor Finkelman and the Board have available to them whatever staff they require. If they need more they have only to ask for it and we try to supply them and there is no argument. I think I can go to the Treasury Board if our help is insufficient and ask for and get assistance because we have got to keep this situation operating. However, you must remember that the rules which are applied here generally in the Metropolitan part of the province must equally operate in Fort Frances, Kenora, in Red Lake, in Pickle Crow, Cochrane, Timmins and in places perhaps in bush operations one hundred or seventy-five miles north of Cochrane, up on the line to James Bay, and lumbering operations at Moose River Crossing. I think that is one of the places that is furthest north. You still have to apply the rules, and if you know the situation up there, I think the train goes up twice a week and comes down twice a week, so you have a big problem and you

cannot make rules for one part of the province and not for the rest.

MR. REAUME: Our purpose here is to try to help you with your problem. Now, that is not the reason for delay, I hear, after talking about it, and I was wondering if the fact that on a lot of your boards you appoint a judge as chairman of the board -- I do not say he is not able or competent, but they are busy people, they have a busy schedule and they are busy trying cases in court and perhaps the Government is expecting them to prepare a report and hurry it up, but they do not have the time. I was just wondering along those lines.

I suppose it will come up, but I was wondering if we could not give some thought to this business of doing away with the appointment of a judge or people of that sort as chairmen of the boards and getting in trained people for the job.

MR. METZLER: Well, I would say this, Mr. Chairman, that as you can see the great bulk of conciliation, the rise in the incidence of conciliation, has occurred since about 1947, which is about ten years, and that was the time we were starting in on that type of work and we were faced with a lot of boards of conciliation. I doubt if we could have carried on at all if we had not had the assistance of the judges because they

were impartial people. We are using people from many other callings in life. There are people who are natural conciliators, I think you will agree, who have a flair for the job, but we are not finding any difficulty at the moment, I do not think, in getting chairmen.

MR. REAUME: A judge?

MR. METZLER: No, we are using them; we are using people from universities and magistrates.

MR. REAUME: If you get into the field of magistrates you are not getting from one field to another; you are staying in the same field.

MR. METZLER: That is right.

MR. MACAULAY: What proportion of your officials are judiciary and what proportion are not?

MR. METZLER: I would not want to hazard a guess. I would say that there are about seventy people who have acted as chairmen in this province.

MR. MACAULAY: One man may have acted more often than the other, so your stable of available chairmen will not produce anything. Is there any way of knowing, say in the last few years, what number of chairmen you have had and the general nature of their occupation?

MR. METZLER: Well, I will give you an example.

MR. MACAULAY: I know you have professors and this and that and something else, but

I mean by number, the number of boards?

MR. METZLER: Well, you have another feature in this situation which I think you have to take into account. In the first instance, the responsibility for finding the chairman of a board of conciliation does not rest on the Minister of Labour; it rests on the other two members of the Board who endeavour to agree on the choice of a chairman.

MR. MACAULAY: How often do they disagree or how often do they agree out of one hundred?

MR. METZLER: I will have to give you something on that.

MR. MACAULAY: Would you say they agreed more often than they disagreed?

MR. METZLER: I would say that the incidence is changing. A couple of years ago I would say they disagreed more often than they agreed but today we find that they are agreeing more because I find that the number of appointments that are coming to my desk are considerably lighter.

MR. REAUME: Of course, the reason in almost every instance, or a lot of them, that they pick a judge or magistrate is because there are not any other people to pick from. What I am getting at is, could we not start thinking now

about the business of training people for this work?

MR. MACAULAY: Yes, have you been doing anything, has the Department been training anybody to do that kind of work?

MR. METZLER: I would say that we do not carry on a specific course of training. We recruit people as we see them become available. Now, I do not want to embarrass a gentleman who is in this room, but Mr. Perkins, the Secretary of this Committee, was a conciliation officer employed by the Federal Government, and he retired from that job about the end of January. I was talking to him one day and he told me that he was proposing to retire and I said, "Well, that is fine. When you do if you feel that you would like to do a little work for us I would like you to Chair a few boards of conciliation for me".

MR. REAUME: May I ask this question? My idea is not to put anybody on the spot at all, but has your Department given any thought or are they going to give any thought to the business of training people for this job? It is becoming more obvious every day that something should be done. It is all right for us to say that a judge is impartial; he may be or he may not, but his mind is trained along channels in the same area but he is looking at it strictly from the legal, or mostly all the time, from the legal angle.

I was wondering if you were giving any thought
to that problem?

(Page 507 follows)

MR. METZLER: Mr. Reaume, I would say this to you: One of your real problems in connection with the recruitment of a chairman, is having to have a particular individual, an individual with a wide background of experience and knowledge of industry and the like of that to be able to understand the problems that are faced by both the employer and the trade union movement. I think that is absolutely essential.

MR. REAUME: Wherein does a judge have all that experience; the background of the trade union movement and the background of industry?

MR. METZLER: Some of them have an exceptional bent for this work. And there is no question about that. They have demonstrated it.

MR. MACAULAY: What is wrong with having some of your more successful conciliation officers out on another plane and set aside as Chairman and to carry out the training of more people to be conciliation officers at a lower level and gradually as they obtain the experience you think is necessary, certainly they would be more experienced even than judges.

MR. METZLER: In answer to that, Mr. Macaulay, we have provided you with statistics which indicate the very considerable proportion

of the cases that come into conciliation, formal conciliation, are disposed of by the conciliation officers. If we were to take and promote our group of experienced conciliation officers into the field of chairmen of boards of conciliation, I think we have just moved the problem from one level to another.

MR. MACAULAY: But if you do it gradually; what if someone dies, we are not going to close up the department. We must be bringing people on all the time.

MR. METZLER: Yes, we are.

MR. MACAULAY: Then bring them on a little faster. I am not trying to be facetious. You, undoubtedly, have a good answer. I just want to know what it is. Could we not bring them on a little faster and prepare them to be chairmen of boards?

MR. METZLER: Professor Finkelman points out to me and I am glad to give you this observation that chairmen of conciliation boards are neutral persons. They are not Civil Servants.

MR. MACAULAY: Would a judge not be vested with neutrality as far as the union is concerned? Or would it be that he does appear to Professor Finkelman to be neutral, but does not appear to the union to be neutral?

MR. METZLER: That is a question I would not want to pass a comment on.

MR. MACAULAY: I want to define what you mean by neutral. Do you think a man who is a negotiator goes in as a neutral person? Is he not recognized as a conciliation officer? Is he not deemed by both sides to be neutral?

MR. METZLER: I would say he is.

MR. MACAULAY: Why would he be less neutral if he were asked to act as chairman?

THE CHAIRMAN: I can readily imagine the situation that would arise if the Department of Labour appointed one of its own employees to be a conciliation officer. It would immediately raise the bogey of Government intervention and, again, it would be an impossible situation.

MR. MACAULAY: Mr. Chairman, I think you have summed it up as your own opinion, but I do not know that it is necessarily so.

THE CHAIRMAN: I did not intend to convey the impression that it was necessarily so, but to anyone with ordinary intelligence it would be a reasonable explanation.

MR. MACAULAY: It must be that I am not of ordinary intelligence, but can you tell me why is it that the same rule does not apply to the conciliation officer? Why is that not considered to be Government intervention?

THE CHAIRMAN: Would you say why not?

MR. MACAULAY: I do not think it is for me to say; you are the one who used the phrase.

MR. MacDONALD: I think the point is here that it is not necessarily the way you recruit the people. I do not think it goes without dispute that the judges are the best people. The very existence of the Labour Relations Board is in recognition of the fact that judges are not the best people and strictly viewed the legal mind to industrial relations is not the best approach because the legal mind can ignore subtleties in tense industrial disputes and make the situation worse rather than solve it. I think the solution to the whole labour relations issue will be solved to the extent that we can get chairmen of conciliation boards who have that natural flare that the Deputy Minister refers to and who are, perhaps, not restricted and hide-bound by an undue legal approach may be the better people.

MR. REAUME: I can agree with that. I do not think you have to recruit people from the ranks of civil servants. The civil servant is one, I suppose, who is paid by the people and I was just wondering who the judge is paid by.

MR. MYERS: Where do you get such a person?

MR. REAUME: Train them.

MR. YAREMKO: I note by the statistics on Table 2, 1956-57, Section B, it would appear that about 230 conciliation boards sat during the course of the year. Of that 230 would there be any chairman who sat continuously as chairman? Is there a field for a professional class known as Chairmen of Conciliation Boards? Is there sufficient there for a man to choose as a career being the chairman of conciliation boards?

MR. METZLER: That is a very difficult question to answer. You have, possibly, a situation in the United States where you have people who are recruited as professional mediators. Those men are engaged in this type of work and they may provide to industry, for instance, a very large industry, may agree on a mediator and he is appointed and, perhaps, kept on a retainer by the industry and the trade union, and he is available for service in that industry. I do not know that we have had any development of that character in Canada as yet.

MR. MacDONALD: May I re-phrase Mr. Reaume's question? Has the department actually trained people; have they looked over the scene and tried to persuade people who may have never thought of this as a field in which they might be able to make a contribution, have they tried to persuade them to become available on

this roster? I can think of an example. I happened to be in Nova Scotia at the time of the dispute between Dosco and the Mineworkers and, presumably, they themselves chose Reverend Nicholson. Reverend Nicholson is at the head of the theological college, and certainly this is not normally the kind of person one would think of, but in this instance he was the man who had the respect of both management and union and this was a very tense dispute. This leads me to believe that training was not the most important thing, but the industrial must have natural attributes. Has the department gone out into the community to secure people in conjunction with labour and build up your roster so you would have them, perhaps, without the necessity of training.

MR. METZLER: I would say we have. As I see a man become available, a man you might consider as having had a successful career in business or a successful conciliation officer, naturally, if I see him becoming available, I am going to get after him and ask him if he will undertake this work.

MR. REAUME: Isn't this obvious: Here is a county court judge who has a busy calendar and so you appoint him as chairman

of the board. Now he has two jobs. He has two things in mind and when it comes to fixing a time for the board to sit, I suppose he checks his calendar for appointments, and if the meeting of the board conflicts with his appointments, I should think in all fairness to everybody concerned he would take care of the appointments in court first and let the other work ride. Is there anything we can do to avoid that?

MR. METZLER: First of all, it is not quite as simple as that. You have to take into consideration that you have five persons, five separate decisions to consider when you start to set up dates for a conciliation board hearing. You have the chairman, two members of the board and you have a representative of the union and a representative of management. You yourselves know that even in connection with the sittings of this committee you have to debate among yourselves as to how you are going to proceed as to time because you have to consult your own individual interests. The same holds when we try to set the time for conciliation board hearings. I would say in most instances when I approach a man to sit as chairman of the board he will immediately say, just a minute, I would like to see what my docket looks like. For

instance, people who are, more or less, successful immediately say to me, I am very sorry, but I could not even look at that for the next six, seven or eight weeks. And I say, it is too long, I cannot wait for that length of time. I will have to get somebody else.

MR. REAUME: I am hoping for the time when judges will stop sitting as chairmen of these boards. Any experience I have ever had with the boards, when it comes to the question of setting the date, the principal offender of not being able to set the date is the chairman of the board and he cannot help himself. Judges are very busy people, and for that reason I think they should ultimately go back to their own job.

MR. YAREMKO: Any capable man that is available --

MR. METZLER: We are always on the lookout for anyone we think would be suitable regardless of what field he is in.

MR. YAREMKO: I do not want to use Mr. Perkins' name, he is in a very fortunate position; he is in a semi-retired stage and be free to act as Chairman of the Board. Most men in the field would be confronted with calendars that would be filled up. The question is, isn't there enough to develop

a professional class of men who would make a career of being chairmen and who would do nothing but sit and wait and be available at all times to be chairman of the Board. Is it a feasible proposition?

MR. FINKELMAN: The experience in the United States of a professional class is that it has evolved as a long time process. You are not going to force anyone into a position where he is going to give up something that is secure for the rather insecure position in the field of conciliation and arbitration and devoting his whole time to it. In the United States I have spoken to a great many of the professional people who have organized themselves into a body, the National Academy of Arbitrators, and the members of that body do full time arbitration and mediation. That body came into existence just 10 years ago after many of the people involved had had many, many years of experience and they gradually evolved into a professional body. As I say, they have been in existence about 10 years and they have about 300 members. I think about about 50 spend all their time on this type of work. The rest have other sources of income as well, but a few of the people there are gradually devoting more and more

time to this type of work. However, as I say, out of the 300 there are, perhaps 50 at the most over the whole of the United States who devote their full time to arbitration and mediation.

MR. REAUME: Who would be interested, in any event, in entering this field even having a flare for the work when at the back of their minds they know that practically all of the cases are being handed out to the judges. As long as that condition goes on --

MR. METZLER: Well, well --

MR. REAUME: I have not seen the figures, but I would say in the majority of cases a judge sits at the head of the Board.

MR. METZLER: It may be, I cannot make any accurate comment on the ratio. I would say that we have less of the so-called lay mediators than we have judges.

MR. REAUME: And there is a reason for it.

MR. METZLER: That may be. The point I would like to follow up is the remark made by Professor Finkelman. I would like to point out to you if there are only 50 men in the whole of the United States, a country of 175 million people, who are devoting their full time to this work, you can see what the

relative proportion would be if you were to transfer that in reference to the Dominion of Canada with 10 per cent of its population. Of course, I would like to point out to you this: In the province of Ontario, I am not in a position to give any statistics with regard to the province of Quebec because I haven't too great a knowledge of their operations, but I would say that in the province of Ontario we would do as much or more conciliation work as the other eight provinces combined.

MR. REAUME: Yes.

MR. METZLER: If you look at the statistics that are given you, you will see that in one year with a carry over we have had 370 Boards of Conciliation operating which is something like one a day.

MR. REAUME: And that is the very reason or, rather, one of the reasons we should do away with the judges.

MR. MACAULAY: Mr. Chairman, did Mr. Metzler say he would find out what proportion there was over the last couple of years?

MR. METZLER: I will endeavour to give you the statistics relative to a period about which you are asking. We will produce it before the end of this committee's inquiry. I can give you some rough figures, but I can

get the real figures and will be glad to.

MR. MACAULAY: The figures for the last couple of years relative to the proportion of laymen as opposed to judges who have been chairmen of the boards. It must have some bearing.

MR. METZLER: I would like to point out there are one or two men, not judges, who have been engaged pretty heavily in this field. Those people in the main, I doubt if I could arrange for them to sit on a Board of Conciliation because they are all booked up.

MR. MACAULAY: Did you mention one of the problems was arranging a time between the chairman and the two members of the board and the two representatives? Do you not think there has been an attitude developed allowing a great amount of elasticity in those matters and, perhaps, if a definite time were set down and adhered to the persons engaged who were not available for that time would have to be replaced by somebody else rather than getting the whole process to shift around because one man happened to be unavailable.

MR. METZLER: There are so many elements that enter into the conciliation itself, that it is almost impossible to state that by fixing specific time limits you could

manage to curtail the prolongation of the conciliation process. You have to consider it from this aspect, as I see it, the Department of Labour could not afford to become martinetts on the strict administration of time. Our job is to settle disputes, not to perfect a procedure. If a conciliation officer came to the end of 14 days of his operation, and he was sailing along and things were starting to roll and he suddenly, at midnight of a certain date, stands up and says, "Gentlemen, I am sorry, this is all over. The 14 days are up." If he told that to me, I think I would fire him.

MR. MACAULAY: Can you tell us what time elapses in relation to the conciliation aspect and in relation to the board aspect?

MR. METZLER: We are going to give you a complete analysis for two years, 1955-56, 1956-57 and show exactly what has occurred in respect to the entire volume of work.

MR. REAUME: Will you have in your report an analysis of the number of times the chairmen vote one way or the other? In other words, he is sitting there as an impartial man. The report shows that in the majority of cases there is a vote one way or the other. Will it be possible in your report for us to

know which way the vote is.

MR. METZLER: I see what you mean.

Let me put it to you this way: If you are going to have a majority report it is usually the report of the chairman. The chairman always figures in the centre plus one or other of the members. What you would like is a breakdown of how often is the Chairman with the trade union representative and how often with the employer representative. Is that the idea?

MR. REAUME: Yes, and the reason for that question is this.

MR. YAREMKO: Actually, it would boil down to how often is the chairman in the minority.

MR. METZLER: Never, never. If that happened I think I would drop dead.

MR. YAREMKO: Then if he is not in the minority he is in the majority.

MR. REAUME: That is correct.

MR. MYERS: Is there any such thing as a unanimous report?

MR. METZLER: Very often. We might as well put that in. How often has it been a unanimous report? I would like to say this to you: Often times you will have a single document issuing from the Board of Conciliation.

In this document you may have half a dozen points in issue. The chairman and the trade union representative may find themselves in agreement on a particular point, and will state that in the document; the employer representative dissenting, and he would say so and so. You go down the line and you see the document signed by all but expressing their particular views on individual points that have been in dispute. On other occasions there is a straight dissent but the dissenting voice may say, "I am prepared to accept items 1, 2, 3 and 4 but on item 5 I do not agree with the majority report and I would do thus and so.

MR. JACKSON: If Mr. Reaume feels there is a problem in the chairmen on these conciliation boards would it not be wise for him to bring it out on a subsequent hearing with both union and management to see if there is a problem. I am thinking they would be the people who would know. Am I wrong in this?

MR. MACAULAY: There has been a great deal of criticism, at least in the newspapers, and I think that is what Mr. Reaume means.

MR. JACKSON: I recognize that, but would it not be possible for those people to

come before us and bring it out.

MR. METZLER: I do not want to be gratuitous about my observations on this whole process but there is at least one other thing that should be said: Can you train people to be professional chairmen and professional mediators? I do not think that Professor Finkelstein and Mr. Reed mean that you can take young fellows coming out of high school and send them to the university and give them a course that would ultimately, on graduation, give them a sheep skin to go out and settle industrial disputes.

MR. REAUME: I agree, but there is no young man going to take a course in anything even if he has a natural flare for the work when he knows before he starts there is no work for him because the work is all being handed out to judges.

MR. METZLER: There has to be a judge sitting.

MR. REAUME: I am opposed to judges sitting as chairmen.

MR. MACAULAY: If that is not clear now, I don't know what is. Mr. Metzler, I presume one of the reasons you are saying that, is that you feel a man's training may not be as important as his desire and general propensity

to deal with people's lives.

MR. METZLER: And his general experience.

MR. MACAULAY: Is it not a fact you have engaged conciliators and have worked with conciliators, and when you find there is an indication that those men do have the capacity to deal with other people's lives would they not, perhaps, be worthy of further specialized training or advancement?

MR. METZLER: You might be interested to know how we recruit our conciliation officers.

MR. MACAULAY: Yes.

MR. METZLER: We have quite a body of general inspectors who work in what we call the factory inspection branch and we get fine fellows who have had a good career in labour. This is the policy of the Minister. When we go out to recruit factory inspectors we are going to take people who have some general basic knowledge of factory life. In other words, they are not office personnel; they are people who have been engaged in this type of work. We take the likely looking recruits, they may go on for three, four or five years doing a good job. Mr. Fine will come along and say, "I have been keeping track

of so and so and I think he must be a good candidate for conciliation." Again, in that field, I have no problem in transferring that man over to Mr. Fine. He then undergoes a course of training. He rubs shoulders with the rest of the boys and he goes out with them as an observer on the job. He works on that, and works as sort of an assistant to another conciliation officer for a year or so. He does that until he finally starts to feel his way and see^{what}/the basic attributes of a good conciliation officer are.

MR. MACAULAY: Have you ever had to discharge someone or change them from conciliation to something else?

MR. METZLER: Fortunately, no.

MR. MACAULAY: Which does establish some point.

MR. MacDONALD: The question is, what is the point.

MR. METZLER: I would say that I am extremely proud of the staff we have in the Department of Labour and we try to make our choice wisely.

MR. ROWNTREE: Dealing with the question of time factors involved, which is an important point; is there any schedule within this area of the time factor which

calls for what is described as a cooling off period. A situation where things run over and where it would appear that due to the heat of the parties involved, a cooling off period is a desirable thing and that, of necessity, involves time.

MR. METZLER: I would say to you in answer to that that immediately the trade union or the employer or both of them, jointly, start the conciliation process you can say to yourself, all right, they recognize their responsibilities under the law and the situation then remains in that state until such time as the Board has reported or a settlement has been achieved. If you are concerned about delay in the operation of the process, I think you will agree once you have seen the statistics that we will produce, that there is not much we could do internally to shorten up the process. Professor Finkelman would be better able to speak from the standpoint of the Board, which has the initial step, but I believe it can be said once an application has been filed, that it will be processed very quickly within about a minimum of four days.

MR. FINKELMAN: No, it runs about seven days.

MR. METZLER: It is seven days. Then it is assigned to Mr. Fine. We have a method of operation. The file goes up from the Labour Relations Board to my office. We have one form in which all the details of all kinds of conciliation are considered and it is signed either by the registrar or the deputy registrar of the Board. There is a statement, a memo to Mr. Fine, which is printed. It says, this matter is assigned to you for the appointment of a conciliation officer and I sign that on behalf of the Minister. That process will be completed within hours, once it comes from the Board, because all it requires is a signature and then it goes on to Mr. Fine. I think, as he indicated in his opening remarks back in June, that one of the problems that they have is to assign it to a conciliation officer and get it into the run of things. It is not possible to say that you are going to have a conciliation officer available within two or three days because each one of those men has a calendar and his docket will be full up to a certain extent.

MR. MACAULAY: Perhaps this is redundant as the question has probably been asked before, but how many do you have?

MR. METZLER: We have 12 conciliation officers; that may be subject to a correction one way or the other by one man. I think there are 12 at the moment.

MR. MACAULAY: Knowing how long a normal conciliation took, that he is involved in, would that give any indication of how long a time one might have to wait until a conciliation officer became available?

MR. METZLER: It is not as simple as that. The conciliation officer will look at a docket, I wish he were here because he could produce a sheet to you and show you just how that thing is made up which shows where each conciliation officer is and what he is doing. I would not attempt to read his mind as to why a conciliation officer is assigned to a certain job. The reason is that he may have had it the year before and may have been very successful in that type of conciliation, so back he goes. He will look up the docket and see who is most available, but even that does not fix the date. The conciliation officer will contact both parties and will tell them, "I have been assigned to this matter. When can we get together?" There are considerations there that have to be taken into account. The conciliation officer

may know full well that unless certain people representing the task of getting down to effecting an agreement, the agreement will not be advanced. So if a man who is particularly skilful comes along, or an international representative comes along with the negotiating committee, and if he is not going to be available for two weeks, what do you do? You may have to wait for him. If you have to wait for him you just have to put the thing forward two weeks. So it is just not that simple. Once the Board is reported, it is an automatic process. It comes into the office. I never see it. The right people immediately take it and get the notices out for the different parties to nominate their representatives. They have three days in which to reply to that.

MR. MacDONALD: If I may just express an opinion here: Earlier, Mr. Metzler stated, in effect you recruit the conciliation officer by training those who potentially emerge in other phases of the department's work. I think if you transferred that kind of approach to the problem of getting an adequate roster of chairmen for boards, by the same token the same very persistent search for people in the

community at large, it might result in increasing that roster to the point where we could fulfill Mr. Reaume's dream of leaving the judges to their own work.

MR. METZLER: Let me put it for you another way: If you have 370 boards of conciliation it would be nice to think we had 370 different chairmen to take care of them, but that is not possible.

MR. MacDONALD: I think in that connection it will be interesting to have the 370 broken down into judiciary and non-judiciary classes and also how many boards they had in that year.

MR. METZLER: I cannot agree we will produce that as quickly as the other statistics. Professor Finkelman tells me it is five days in which they must reply indicating who will sit.

MR. REAUME: This is an important question, and I think we will go on with it further, if not now, then later on in these proceedings. I notice we have briefs from unions, chambers of commerce and people of that sort. I was wondering about this one point: I do not know what the powers of the committee are, but I was wondering if you could not bring before us a judge who has

had a lot of experience in this type of work and to also bring before us a professional man, a man who has done this very type of work in many instances so that we can get their advice and hear what they have to say as to the structure as it is now.

MR. METZLER: I think, certainly, that you could do that and if you agree I might suggest one or two people who could give you a pretty fair appreciation of the situation.

MR. REAUME: I was thinking, for instance that Judge Fuller is a man ~~who~~ has done a lot of this work; he has sat on a lot of those cases. Then there is Mr. Taylor.

THE CHAIRMAN: I think our Terms of Reference gives us that power.

MR. METZLER: I think an invitation would be sufficient to bring any of those men. I would suggest Judge Anderson; he has had a very wide experience and a very successful experience.

MR. REAUME: I do not know whether you have to have a motion or just leave it to the Department.

THE CHAIRMAN: I think if you would leave it to the Department or to the Secretary and tell him whom you desire to have the Secretary will request their attendance.

MR. REAUME: I would not say any certain people, but I would hope we would get people before us who have sat on a number of these cases and who are competent to answer these questions.

MR. MACAULAY: Mr. Chairman, you have the power to issue a warrant.

THE CHAIRMAN: I do not think it will be necessary.

MR. METZLER: It will not be necessary.

MR. REAUME: They will come and you will not have to go with a patrol wagon.

THE SECRETARY: I could advise the committee that I have received answers to my invitations. I have one from a man who has been chairman on 50 or 60 cases, and he will be here on the 10th of October. He is Professor Wood of McGill University. I have also received applications or accepted invitations from members of boards representing union, representing employers and they will be here, but no date has been fixed yet. You will, undoubtedly, get some information. I did issue an invitation to some people in Ontario, but they have not accepted. I imagine they are rather reluctant to express their views, but I think if they are invited again, they may appear before us.

THE CHAIRMAN: It seems to be the opinion of some members of the committee that we should have some members of the judiciary here, and the names of his Honour Judge Fuller and His Honour Judge Anderson have been mentioned. I will ask the secretary to issue invitations to both those gentlemen and ask them when we can have the pleasure of hearing them.

MR. MACAULAY: If the Chairman and the committee are agreeable, I would like Professor Laski to be called on.

THE CHAIRMAN: Professor Laski is preparing something for us.

MR. METZLER: Yes, but I think it would be advisable that the Secretary should ask him to be in a position to express his views on this other matter.

THE CHAIRMAN: The name of Mr. Eric Taylor who is also a board chairman has been mentioned.

MR. METZLER: That is right.

MR. JACKSON: In that regard I would like to know just exactly what Mr. Reaume is going to ask; what he hopes to gain. I know you said it earlier in your discussion but would you mind repeating it again what you hope to gain or bring out by these

men being present.

MR. REAUME: First of all, there is a feeling in the minds of the people in union that there has been a delay in the breaking down of the report. For one thing, I wanted them to point out how we could expedite this. I want to find out from judges and other people whether or not, in their opinion, the judge is an appropriate person to sit as chairman of the board by reason of the fact that their time is already taken up. They may feel there are other reasons of their own, but I know cases have been held up because of the fact that the judges have been busy doing something else. If we are going to amend the act in any way, for the purpose of trying to assist both union and industry, then I think it is essential we have these people before us. They are people who have been out in the field and have gained first-hand information that I think would be valuable to you and to me, and to all of us.

MR. MacDONALD: I think there is agreement on that.

THE CHAIRMAN: I think we understand what your object is, Mr. Reaume, and I think it would be very helpful.

MR. REAUME: I do not want to say

anything detrimental about the judges, because I am going to have to appear before them.

THE CHAIRMAN: Now, is there anything else under this heading. We are on page 17. Page 18, 19 and 20 and we come to heading conciliation accounts, 1956-57, 1955-56.

MR. YAREMKO: Before we proceed with that, is this principle of collective bargaining which is a recent development, but is it gaining momentum as the time goes by?

MR. METZLER: Professor Finkelman thinks it is. I would say so, yes. It is well established, for instance, in areas in the construction trade. Here in the City of Toronto you have the Toronto Builders Exchange who will bargain locally for all the general contractors and certain basic trades like brick laying and contracting. Then you have the garment trade, they will bargain together; they are a joint committee. And then there is the fur industry. You have group bargaining, but it is more or less on an informal basis where you have a group of manufacturers, say in the printing trade. Actually, as I recollect it, there were three groups in at least one instance of bargaining. A fur shop employer, another group that signed the collective agreement that did not belong to

that group and then you have a third group of employers in the picture. They all got together and set up an informal committee to handle their bargaining. The trucking industry is another good example. They will bargain through the Automotive Transport Association, but they all sign individual agreements after the bargaining is completed, as I recollect it.

MR. MacDONALD: There is the pulp and paper industry.

MR. METZLER: Up until recently, I think, they bargained as a group. I am not just sure how they handled it. They used to have a very large bargaining meeting in the City of Toronto. They came in from all over the place and sat down with each other.

MRS. GRIMSHAW: I think that article in the Labour Gazette that is referred to in the appendix would give you a good background as to where group bargaining exists; how it arrives and how it develops.

MR. METZLER: Is it a very long article?

MRS. GRIMSHAW: No, it is not very long.

THE CHAIRMAN: Have we been supplied with that?

MRS. GRIMSHAW: No.

MR. METZLER: I think what we will do, if you desire to have that for the use of the committee, it is back in 1949 and we could not get enough copies of the Gazette to take care of the situation, but we will undertake to have enough copies mimeographed to supply each member of the committee.

MR. FINKELMAN: One very important group who bargained through employers and union, were the Adam Beck Station at Niagara Falls and another one on the seaway, and there are some developments in the north-west, and several other type of projects involving many, many employers and a substantial number of employees.

MR. ROWNTREE: I would like to ask a question about group bargaining. Suppose we have a group of five or six employers which is rather a small group.

MR. FINKELMAN: It does not matter what the size of the group is; they bargain collectively as a group and eventually consummate the agreement. That agreement then is taken as a pattern for the ones who remain to be signed and those outside the group. It does not take away the bargaining rights from the ones who were not in the original bargaining negotiations any more than any agreement made

between one employer and one trade union and another. For example, in the Windsor area when the U.A.W. makes an agreement with Ford, that pretty well sets a pattern for many of the employers in the Windsor area. It is inevitable that both parties should talk in similar terms. I would not say it takes away the bargaining rights of the suppliers, necessarily. There is a pattern established there which other people are prone to follow.

MR. ROWNTREE: I suppose it could work the other way; it does not matter who the pattern favours. Then, let us say several of the groups who were not in on those original negotiations and they are told there is the agreement; either that that is what we are going to give you or what you have to sign. Is there any comment on that?

MR. METZLER: I can give you an example of what can develop in a situation. For instance, in the north country, we had a conciliation grant in respect to maybe four or five saw mills in an area. Three or four of them assigned collective agreements as a result of operations of the conciliation officer. On the others, we just declared there would be no board. They had participated in the bargaining, and there was no difference

between their operation in the sense of what they were producing and how they were producing and what the general run of terms were. What was to be accomplished by the Board of Conciliation? It was obvious the result would be pretty well the same to what the employers in the area agree to.

MR. ROWNTREE: The situation I have in mind is when you get into the second phase of the bargaining; different employers have different classification arrangements in the scope or area of the work to be done by one man which is on one basis by one firm and another basis with another firm.

MR. METZLER: I would not care to make any comment in a general way on the broad lines of industry because it seems to me there may be individual cases that will have to be dealt with, but I think that Mr. Fine, in his observations, in respect of delay back in June, did make reference to the fact that unquestionably in a certain type of industry the coming to a settlement by conciliation with others that are in that industry will largely depend on the outcome of negotiations with a major plant in the industry. Take the electrical industry, for instance. It may be you could not hope to settle with some

of the smaller people in the industry until you had General Electric and Westinghouse out of the road. I am not saying that is the case in this particular industry. You might say there is a pattern established for the industry that may or may not hold.

MR. WREN: What is the minimum number of employees who can apply for certification?

MR. METZLER: Two.

MR. WREN: Two is sufficient.

THE CHAIRMAN: Is there anything else on page 20?

MR. YAREMKO: Before we leave that, perhaps I have a further question. Is this bargaining done in a formal way or done by mutual arrangement between unions and employers?

MR. METZLER: What are you referring to?

MR. WREN: Group collective bargaining.

MR. METZLER: It is done in a formal way just the same as any other.

MR. YAREMKO: They apply?

MR. METZLER: There is one difference, in bargaining through an organization, an employer's organization, and with an individual employer. An organization, or at least a union, cannot gain certification under the Labour Relations Act in respect of an employer's organization,

but they can bargain if the union is recognized by the employer's organization, and there is a collective agreement signed between the union; the union and the organization then subsequent bargaining for renewal does come within the process established under the Act.

MR. FINKELMAN: May I add one other thing: The bargaining may be formal where you have an association representing employer and a collective agreement has been made between the association and the union; the association can give notice to the union and the union can give notice to the association asking for a renewal of that agreement and generally speaking negotiations will carry on between the association and the union, but in relation to that, there may be an informal group working where the parties get together in an informal way to thresh out their problems and then they sign individual agreements. The union may invite three or four or five employers to meet together and discuss a certain point, set the meeting for a certain day and say three or four employers turn up, then they sit around the table and bargain in a group. Or the employers, when they receive the notices from one union, may inform the union we are going to sit down together and

it would be purely an informal arrangement.

MR. YAREMKO: Could the union say we do not want to bargain with you as a group: We want to meet with you individually.

MR. FINKELMAN: We have never had to face that matter as a legal procedure. I suppose, in practice, it may happen that the union or the employer say we will meet with you individually or it may be that one of the group invited to the meeting did not attend the meeting and they say, we will bargain with you on an individual basis, we do not want to sit in with other employers.

THE CHAIRMAN: Page 20, Conciliation Accounts. Page 21, are there any questions arising out of page 21? No. Page 22?

MR. JACKSON: Mr. Chairman, perhaps this would be a good time to bring this matter up; I was trying to decide how many cases were disposed of by the Board, classifications we have here. I cannot seem to get how many it is by adding all the totals.

MRS. GRIMSHAW: Which page do you mean?

MR. JACKSON: I checked page 23 that we are on now, and I get 369. You say of 280 disposed. I refer to Table 5 in your statistics and I see there are 646 settled by the Board and then I come to this chart and I

find that there are only 197 referred to in the first place. You will have to lead me through these figures.

MR. METZLER: First we have the item, settled by conciliation officers, Table 5, page 18 of the statistical table.

MR. JACKSON: Subtract from 502 from 646 --

MRS. GRIMSHAW: Do you mean by the procedure as a whole or which stage of the procedure?

MR. JACKSON: Just by the boards.

MRS. GRIMSHAW: What percentage were settled by the Board?

MR. JACKSON: What number?

MRS. GRIMSHAW: Settled by the Board, 93.

MR. JACKSON: Where do you get that?

MRS. GRIMSHAW: That shows up in two places, but look at the top of page 14, the accounting table.

MR. JACKSON: What happened to the 297?

MRS. GRIMSHAW: Perhaps you had better look the whole table up. During the fiscal year, 297 cases were referred to conciliation boards. That shows here in the opposite column stages referred to, to the

Board and repeated down here again. They have been at the Board stage. At the Board stage 297 referred to the Board and 73 carried over, which gives you the total of 370 dealt with. We now turn to disposed of during the Board stage during the period. There were 51 settled prior to the Board's full operation. Ninety-three settled by the Board during hearings which gives your sub-total, settled at Board stage of 144. Then there were 135 which were not directly settled by the Boards and one had lapsed. That gives a total of 280 disposed of at the Board stage; and 90 pending at the end of the period of the Board stage, and if you add 90 to 280 you get 370 which is the same total number of cases dealt with. It is basically an accounting table and they balance.

MR. JACKSON: You say the Board disposed of 280. You do not count the 51 cases disposed of by the Board?

MRS. GRIMSHAW: Not by the Board, but disposed of at the Board stage. We define the Board stage from the date the officer makes his informal report to the Department to the end of the Board's report.

MR. JACKSON: Two hundred and ninety-seven to the Board.

MRS. GRIMSHAW: To the Board stage.

MR. JACKSON: Then I take away 51.

MRS. GRIMSHAW: Why do you take away 51?

MR. JACKSON: I am trying to get at the actual number settled by the Board.

MRS. GRIMSHAW: What you are driving at is the number of boards fully in operation and the number of disposed of by those boards. The number disposed of that actually got the full Board set-up and fully disposed of?

MR. JACKSON: Is it 93? When I look at this chart I see 93.

MR. METZLER: Ninety-three is the number actually settled by the Board. A collective agreement was arrived at as a result of the operation of the Board in 93 cases.

MR. JACKSON: What do I compare it with? Do I compare it with 297?

MRS. GRIMSHAW: No.

MR. JACKSON: Two hundred and ninety-five minus 51.

MRS. GRIMSHAW: I think you are going to get confused.

MR. JACKSON: I am confused.

MRS. GRIMSHAW: Can I go on from this table to the next table which shows the disposition at the Board stage, Table 3 on

page 16. Here is the Board stage disposition; 280 taken off your first table. That is the number disposed of or closed out at the Board stage.

MR. JACKSON: It does not add up; 280 does not add up to the 297 referred to.

MRS. GRIMSHAW: I think we will have to explain the basis of the balancing of accounts and then maybe you can see that. We take the table, referred to during the year, plus -- you can see it on the chart. Here is your 297 (indicating wall chart) referred to the Board during the year. That is the incoming work road at the Board stage. There are 73 already at the Board stage.

MR. METZLER: They were the carry over.

MR. JACKSON: You have 370.

MRS. GRIMSHAW: You have 370 -- we define the Board stage in this way: The Board stage as beginning from the conciliation officer's report to the Minister recommending a Board. It is not when the Board Chairman is appointed. That is dealt with at the Board stage during the year. Here is how they were disposed of. Five hundred and thirteen settled prior to the Board operation. They came in here and we have to account for them in some way. Ninety-three were settled directly by boards.

One hundred and thirty-five were not settled. This is the way it was disposed of. And 90 still pending at the end of the fiscal year. This is the whole disposition at the Board stage. This is this plus this plus this (indicating on chart) and here is the total disposed of at the Board stage. The reason I am emphasizing at the Board stage is because we have defined the Board stage as beginning from that period when the officer recommends that a board be set up to the end of the period when the Board reports. In all disputes there is an interim period before the Board is set up. These percentage figures refer to that: 280 which were disposed of at that stage at any time between the officer recommending that a board be set up and the formal Board report. In 51 cases there was a settlement before the Board was finally established. We have arrived at the percentages on this: We say 51 or 18.2 per cent settled prior to the Board's full operation. Ninety-three or 33 per cent settled during the Board hearing by the Board and 48, which is 42 per cent not settled but they were formally closed out as far as formal procedure.

MR. JACKSON: I think it is only a question of interpretation of figures. Can I compare 329 to 93 settled?

MRS. GRIMSHAW: I think what you want to know, there is another figure you can derive from those. You are worried about the 651.

MR. JACKSON: I am not worried about it; that does not concern me at all. You settled 93, the Board did. Not disposed of, but settled. Out of how many that came before the boards? I say it is out of 329.

MRS. GRIMSHAW: That is what I am getting at. These are all the disputes that got to the Board stage, and were disposed of at the Board stage, and you want to confine the Board stage more narrowly. You are concerning yourself with those cases where the Board fully operated.

MR. JACKSON: Yes.

MRS. GRIMSHAW: You can get it; all you do is concentrate on those two sets and you define them as those disputes in which conciliation boards were fully operating.

MR. PARMENTER: Two hundred and twenety-nine concerned, and one lapsed.

MRS. GRIMSHAW: You take the 93 plus the 135 and one lapsed and you get 229 in which boards were fully established and reported during the fiscal year. That is the full board group, and you take the percentage of

that 229 to find the settlement rate where the Board was fully established and reported and it comes to just about 41 per cent and you do the same thing for the previous fiscal year.

MR. JACKSON: That is what I want.

MRS. GRIMSHAW: There are two ways of looking at it.

THE CHAIRMAN: Page 21, finished.

Is there anything further to page 21? No.

Page 22? Page 23, the settlement rate at the conciliation officer and Conciliation Board stages. And nothing on page 23. No.

MR. METZLER: On page 24, Mr. Chairman, at the end of the smaller paragraph in the middle it should be Table 3.

THE CHAIRMAN: Yes, I believe we have marked our copies. Is there anything arising out of page 24? Page 25, settlement rate of conciliation procedure as a whole. That is carried over to page 26. Is there anything arising out of 26, page 27? Since there are no further questions arising, gentlemen, and it is now 1 o'clock, we will adjourn.

The Hearing adjourned at 1 o'clock.

(Page 562 follows)

The hearing resumed at 2 p.m.

THE CHAIRMAN: Gentlemen, it is now 2 o'clock.

When we adjourned we had concluded the statistical analysis of operations under the Labour Relations Act. We have the statistical table on the operations of the Labour Relations Board and on conciliation services of the Department of Labour. In the discussion under the statistical analysis on operation, many of these statistical tables were referred to, so if there is any member of the committee who would like any explanation of any particular table I think we can obtain that from the officials of the Department who are here.

Is Table 1 clear to everybody?

Table 2 on page 3? Table 3 on page 4? Page 5? Page 6? Page 7? And page 8? Table 4 on page 9? Table 5, page 10? Table 6, page 11? Part 2 on page 12 -- statistical tables on conciliation services: Table 1 on page 13? Page 14, Table 2? Table 2-A on page 15? Table 3 on page 16? Table 4 on page 17? Table 5 on page 18? Table 5-A on page 19?

Then, the statistical appendix on collective bargaining? This appendix was read

to you. Is there any question arises out of the statistical appendix, page 1? Or page 2? Or page 23? Or page 24?

So I take it that there are no questions arising out of the statistical table, or the appendix.

THE SECRETARY: Perhaps I could ask one here which might be of interest to the members of the committee: On Table 5-A, page 19, the Department shows under section B, the number of cases that have **lapsed**.

I don't think think that term is generally understood, and perhaps Mr. Metzler can tell us what is meant by cases that have lapsed, and what happens to them, or what is going to happen to them.

MR. METZLER: I would refer the question to Mrs. Grimshaw, because she prepared the statistics and **will** be able to give you an idea of what did occur.

MRS. GRIMSHAW: Well, if you look at Table 2, page 14, there is a footnote where it is defined; and this goes through the whole of the table here where the word "lapsed" is mentioned. It says on this: "A dispute is considered ..." --

MR. METZLER: What page is it?

MRS. GRIMSHAW: Page 14, at the bottom.

THE CHAIRMAN: Sub-paragraph 2.

MRS. GRIMSHAW: In this table a dispute is considered to have lapsed when no collective agreement has been reached either because the employer has gone out of business or because the bargaining agent is no longer effective. In other words, it is so noted because of these reasons.

We defined that very carefully. There are not very many of these disputes, but we never note a lapsed dispute until either of these has happened.

For instance, if a case comes up under conciliation and one bargaining agent is displaced by another the first case is lapsed because that bargaining agent is no longer effective. It would then have to come into conciliation as another case with another bargaining agent.

THE CHAIRMAN: That is, it is for either one of these reasons.

MR. MacDONALD: When does the Board, or the authorities, reach the opinion, or the decision, that the company has gone out of business? For example, supposing you have a company which is a subsidiary of an American company and it gets into a battle and, for the purposes

of fighting this battle and winning it and to destroy the union, it transfers its business to the United States for the time being, and the union that is destroyed comes back into the picture --?

MR. METZLER: Has the company actually gone out of business, or has it just shut down? Has there been a strike occurred, in your picture?

MR. MacDONALD: Let us take the current example in the case of Canadian Laundry Machines which have had a strike for some 12 weeks.

MR. METZLER: Yes; but there is a strike.

MR. MacDONALD: Yes, there is a strike; but the company has gone out of business; at least, they have admitted in the negotiations with other groups in the company over on the American side that their manufacturing -- everything in their plants, incidentally -- have been placed on the American side, and, presumably, as long as it is considered a strike they are going to continue the procedure of just importing from the States. At what stage do you decide that a company has gone out of business?

MR. METZLER: We wouldn't regard that

as a lapsed case. The Board has reported that a strike has occurred and that is a case where settlement was not effected.

There are two ways of looking at the situation. I would say that I think -- and this might be in the nature of a question to you, Mr. MacDonald -- would you agree that the strike is effective?

MR. MacDONALD: Obviously it is ineffective if the company just closes up and the strike peters out.

MR. METZLER: But the thing I am coming to is this, that when the strike was declared the company did not make any effort, as I understand it, to continue to manufacture; they just shut down their process. Now, so far as we are concerned, I think we would regard that as a case where it was disposed of so far as the Department of Labour is concerned, because the Board has reported and the report has been issued to the parties, and following that procedure a legal strike was declared by the union seven days after the report was received, or at some later date; and the strike is effective. The other is another development.

MR. MacDONALD: I can see, by the accounting procedure at the department where the Labour Board couldn't describe it as a

company going out of business, but it is another of these situations where, in fact, the company is going out of business temporarily to destroy the union, as it has done once already in an earlier instance.

MR. METZLER: But, I mean, can you differentiate that situation from any other situation where a strike occurs and there is no effort made by the employer to carry on his process? He is out of business and the strike is effective because he is not operating.

MR. MacDONALD: He is out of his business, but has transferred/business to another plant.

MR. METZLER: You are talking about the particular instance; but I say that there aren't too many people, or too many employers, who are in the position where they can make that adjustment of operations.

MR. MacDONALD: The tragedy in this one is that they appear to be in a complete monopoly position.

THE CHAIRMAN: In this particular case they have gone to the United States have they, Mr. MacDonald?

MR. MacDONALD: This is a subsidiary of the American Laundry Machine Company, and they have switched their production to subsidiaries in the States.

THE CHAIRMAN: We can hardly compel them to bring it back here.

MR. MacDONALD: I think, on the basis of what Mr. Rowntree said yesterday, that this seems to get very close to the position that the management has not acted in good faith, and yet there is no legal way to preclude it. They step out of the picture and they leave the union, as they have done in one instance previously; and when it comes back into the picture once again, then the union has been beaten.

MR. FINKELMAN: I think Mr. MacDonald is referring to another concept of this. The cases that are listed under the heading of lapsed are cases where, between the date when the matter has been referred to the Minister by the Labour Relations Board and the date when the conciliation services have closed out the case, they have come to the conclusion the employer is out of business and so the union is out of business and there is general agreement that that is the fact.

The situation about which Mr. MacDonald is asking is the question as to whether a dispute which has gone to strike has lapsed, whether the strike is over. That is an entirely different matter and is not handled by anyone in Ontario. That is a statistical issue that is dealt with

by the Federal authorities in determining what strikes are in effect at any given moment.

So that the lapsed cases so far as Ontario is concerned -- so far as these statistics are concerned -- are cases in which there is agreement by both sides that the issue is a dead issue.

I don't know whether that answers your question.

MR. MacDONALD: Yes.

MR. FINKELMAN: But I think it is relevant before the Board, where a conciliation officer has completed his efforts to get agreement and so on; those are the kind of cases that are treated in these statistics as having lapsed. But if the union were to say, for example, when the employer goes out of business, that this firm was still in existence, and this was camouflage, there probably would be no closing out of that file.

MR. REAUME: I wanted to ask one other question arising out of that. I am trying to figure out some way whereby in the case of where an agreement exists between a company and a union, the agreement might follow the company wherever they go in the province of Ontario. I think that is going to be a very important thing.

For instance, in the city of Windsor there are a number of plants which are moving to other parts of the province, and, of course, the agreements which existed in Windsor don't apply to any other part of the province. I think one of the reasons they are going away is the fact they are anxious to get into the heart of the consuming public which is here, within a radius of 100 miles. The real basic rate of pay in that industry is smaller up here than it is there, so what they are actually doing is building this plant in the east at the expense of the people who work in the plant.

Is there any way at all whereby an agreement can follow a plant of the company wherever they go in the province of Ontario?

MR. FINKELMAN: Are you asking me that question under the law as it stands, or as to whether means can be devised for making legislation to make that possible?

MR. REAUME: Either way.

MR. FINKELMAN: On the first view, as to whether there is anything in the legislation for transferring the agreement to the new location, there are two aspects of the problem: There is nothing to prevent the employer and the trade union involved making

an agreement covering the new location.

Again, if the bargaining unit is so defined as to cover the operations of the employer anywhere in Ontario, then, obviously, the agreement would still continue in effect. But if there is nothing in the agreement which relates to the new location of the company and the employer is not prepared to go along with the union to obtain the agreement for transfer of the agreement to the new locality, then, under the new legislation as it stands, there is no provision for the transfer of the agreement to the new location.

So far as legislation is concerned to cope with the problem I would suppose it is not impossible to devise legislation to cover any situation; but there is nothing in the legislation at the moment which enables the Board to deal with a situation of that sort, apart from a complete new application for certification, starting from the beginning.

THE CHAIRMAN: Is there anything else arising out of this?

MR. MacDONALD: May I ask Professor Finkelman this: If the Board just reports cases lapsed without making an actual report to close out the case is this not going to stand as a bar to another union coming in? Why doesn't the Board make a report even if, in the result nothing can be done?

MR. FINKELMAN: We have nothing to do with that. That is part of the conciliation services.

MR. METZLER: I would like to make a comment on that. The situation usually is that something has occurred, before the conciliation process is complete, which knocks it on the head. There is nowhere else to go, because one of the parties who are bargaining has disappeared -- just isn't there.

MR. MACAULAY: If one of the parties does come back and the first union has established that it is ineffective isn't the other union put at a disability to take up the cudgel?

MR. METZLER: There are two principals to the case . . .

MR. MACAULAY: Is the answer No?

MR. METZLER: Are we talking about the disappearance of the employer, or the disappearance of the trade union?

MR. MACAULAY: I am talking about the employer. I don't know if my friend was talking about the employee.

MR. METZLER: Suppose you have an individual who has been carrying on business and has had a collective bargaining agreement with the employees, and, in the meantime, he incorporated a company and transferred all his assets, or the undertaking he has had as an individual, to that company? It has gone to a separate and new thing so far as the

union is concerned. If they desire to have the bargaining rights restored they would have to have a fresh application for certification.

MR. WREN: But suppose the company just disappears and comes back again?

MR. METZLER: Well . . .

MR. FINKELMAN: So far as we are concerned the bargaining rights may well continue in those circumstances.

MR. WREN: They would still have the right to call upon the employer . . .

MR. MACAULAY: But in the meantime nobody else can go at them.

MR. METZLER: If the employer has closed up they are ineffective -- not only the existing union, but any other union; so what is the use of going after them?

MR. MACAULAY: If they came back again there would be a very good use. This is all directed towards the point that when you make a report that a thing has lapsed it appears that if you reported it in another way it would not be a bar to somebody else starting up at a later date.

MR. METZLER: The fact that we have reported has nothing to do with the rights of anybody in the picture, and the inclusion of these particular cases as lapsed is just to make a record of what has transpired; it isn't an

official chart of the Labour Board.

MR. MACAULAY: But if, as you said, in the middle of the procedure somebody disappears . . . isn't that what you said?

MR. METZLER: Yes.

MR. MACAULAY: All right; so you make no report at all. What do you do in that case?

MR. METZLER: What will happen will most likely be that the Board will say that on the recommendation of the Conciliation Board -- this could happen -- the solicitor for the employer could get up and say: "Well, there is a new company been incorporated and has taken over all the operations. Where do we go from here?" Well, all I do is to acknowledge it and state that so far as we are concerned it would seem as if the employer who had the bargaining arrangement with the trade union is no longer in the picture, and, therefore, the conciliation process has ceased.

MR. MACAULAY: In theory a man could incorporate a new company and transfer assets and yet be the sole shareholder of all the companies?

MR. METZLER: Absolutely.

MR. MACAULAY: That rather thwarts one of the basic functions of the Act, doesn't it?

MR. METZLER: Well, I don't want to make any comment on it, but it can occur.

MR. YAREMKO: There is legislation in

other places which provides an answer for that type of specific situation, isn't there?

MR. METZLER: Yes; there is legislation, as I understand it, in Saskatchewan and in British Columbia. I think there are five provinces which have some sort of provision . . .

MR. MacDONALD: Successor rights.

MR. METZLER: . . . which gives successor rights.

MR. MACAULAY: Do you know anything about the experience of these five provinces -- whether or not that legislation has dealt with the problem, or been satisfactory?

MR. FINKELMAN: There are successor rights in Alberta, British Columbia, Manitoba and Saskatchewan.

MR. MACAULAY: Four.

MR. METZLER: We have had no direct contact with the situation in so far as having gone to work and examined its operation from the standpoint of what is going on in these four provinces, but Mr. Reed, who is vice-chairman of the Board, was in the west during this summer and he did discuss that aspect of the problem with the authorities in at least two of the provinces, and he may be able to indicate what their reaction was to the effect of this type of legislation.

MR. REED: Well, in both Saskatchewan

and British Columbia the members of the Boards that I had chats with when I was out there took the position that their respective legislation, which was pretty similar, seemed to work without any trouble. They had not had any difficulties with it. That was their reaction in Saskatchewan and British Columbia.

MR. MACAULAY: Had these sections originally been in the Act, or were they of recent introduction?

MR. REED: Some of them -- I think Saskatchewan was first. It was the first province to introduce it, and all the western provinces followed suit.

MR. MACAULAY: But I meant were they additions to the original Act?

MR. REED: Apart from Saskatchewan they were. I am not positive about Saskatchewan.

MR. MACAULAY: Did anybody discuss as to why these sections had been introduced? Presumably somebody wanted them.

MR. METZLER: Yes; they were asked for.

MR. MacDONALD: The position in Ontario today is that, reinforced by court decisions, the union has to go right back to scratch and fight for their rights once again.

MR. REED: If there has been a sale of the business to a new entity -- if there is a new

entity enters into the picture -- that is a case, both from the point of view of the Board's decision and . . .

MR. MacDONALD: And legally a new entity may be a very small change which, in fact, is no change at all.

MR. MACAULAY: What is the cure that these four provinces have introduced, which Mr. Yaremko referred to?

MR. REED: It is set out in the legislation.

MR. MACAULAY: Do you know? Are you familiar with it?

MR. REED: Well, these provinces have a provision that where there has been a sale, or lease, or transfer, of the business, if the bargaining rights exist the bargaining rights continue; if there is a collective agreement the collective agreement continues. That is it in general.

MR. MACAULAY: In the event of what?

MR. REED: In the event of the transfer, sale, or lease, of a business.

MR. MACAULAY: So if a man has one company which owns everything and he incorporates another and transfers over to it everything would continue?

MR. REED: Yes.

MR. MACAULAY: And that would also

apply where there was transference from a partnership, or sole proprietorship, to an incorporated company, where the operator was the new sole owner?

MR. REED: I think partnership-to-corporation is covered by their legislation, although no one was specifically asked that question. I think it would be wide enough to cover that.

MR. MACAULAY: Is that your recollection, John?

MR. YAREMKO: You say in the event of the sale, or transfer, or lease; but that would even be broader than an absolute change of ownership having taken place.

MR. REED: That is so.

The British Columbia section provides that "where a business or part thereof, is sold, leased, or transferred, the purchaser, lessor, or transferee, shall be bound by all the proceedings under this Act before the date of the sale, lease, or transfer, and the proceedings shall continue as if no change has occurred; and if a collective agreement was in force that agreement shall continue to bind the purchaser, lessor, or transferee, the same as if it had been signed by him."

MR. MACAULAY: What do you do when they sell half of the assets in one direction and half in another?

MR. REED: I haven't had that experience.

MR. MacDONALD: But your earlier testimony was that in the case of the four western provinces and in the United States no serious difficulty has emerged by having that legislation?

MR. REED: That is what they told me in Saskatchewan and British Columbia this summer.

MR. MacDONALD: On the information given that no difficulty has occurred from it, it seems to me that it is something we should consider.

THE CHAIRMAN: I think we should consider it. That is the point you had in mind.

Now, is there anything else arising out of these statistical tables, gentlemen?

If not, we will proceed to the glossary, prepared by Professor Finkelman, of certain terms used in subsection (2) of section 17, subsection (1) of section 58 and section 59 of The Labour Relations Act:

(1) "injunction." Are there any questions arising out of that?

(2) "declaratory judgment". Are there any questions arising out of that?

Page 2, section 3, "certiorari". That is a writ obtainable either in civil or criminal proceedings. "Mandamus," "prohibition" -- that is not the "prohibition" we used to know -- and page 3, "quo warranto" . . . I understand members of the Committee are all clear on these

terms!

MR. MacDONALD: To the contrary; but that is not the fault of the definitions.

THE CHAIRMAN: Is there anything you would like to have explained while Professor Finkelman is here?

MR. YAREMKO: Are there any statistics on the number of occasions on which these motions have been made?

MR. FINKELMAN: So far as the Ontario Board is concerned?

MR. YAREMKO: So far as the Ontario Board is concerned, yes.

MR. FINKELMAN: Give me a moment and I shall try to figure it out.

Mr. Chairman, from our recollection, nine cases since 1944, first beginning about 1947, but I am not too sure -- 1947 or 1948. Between 1948 and 1957 there have been approximately seven cases. There may have been the odd one in addition to that.

MR. MACAULAY: As a matter of interest, could I ask the Professor: Where these proceedings were commenced were they completed, so far as you can remember? The reason I was asking is that there has always been argument as to the fact that sometimes we proceed in one way and sometimes in another, and there have been arguments whether cases should be generalized and put into one kind of

proceedings.

MR. FINKELMAN: Three cases were dropped before they were heard. The other six cases were heard. The courts found in favour of the Board in four out of the six and against the Board on two.

MR. MACAULAY: Were any of the ones found against the Board based on the fact that the applicant had proceeded by the wrong method?

MR. FINKELMAN: No, not that I can recall. I would have to look at the Decisions and they are not all available. Yes, one of the Hollinger cases may have fallen -- Mr. Reed reminds me that in one of the cases the Court held that the proceeding was in the wrong form.

MR. MACAULAY: Yes.

MR. FINKELMAN: In the others the cases were heard on the merits.

MR. MACAULAY: Yes.

THE CHAIRMAN: Then, gentlemen, that would appear to conclude our work so far as this day is concerned.

Tomorrow, according to the schedule, we are to hear and have presented to us briefs from the National Council of Canadian Labour, from the Labour Association of Canada, and, on Thursday, the Canadian Construction Association, the Ontario General Contractors Association and

Toronto Builders Exchange.

Whether we will conclude these five briefs by Thursday I am sure I do not know, but in view of the fact that we have, next week, decided to start our sittings on Tuesday rather than on Monday I would request the Secretary to prepare a new agenda for this Committee.

THE SECRETARY: Yes.

I might advise the Committee that the Ontario Federation of Labour will be here on Tuesday. The three that were previously settled tentatively for Monday will be postponed. They prefer it that way because of a number of other commitments that were already fixed.

THE CHAIRMAN: So that our first presentation next week will be from the Ontario Federation of Labour?

THE SECRETARY: Yes.

THE CHAIRMAN: That will be on Tuesday morning at eleven o'clock.

THE SECRETARY: Yes; and I will have a new schedule made up.

MR. JACKSON: Is it the intention to bring back some of the members that are here present at a later date after we have heard some of the briefs, or, perhaps, all the briefs?

THE CHAIRMAN: At any time the Committee feels that we should have some representative

of the Department of Labour I think I can undertake that they will be here.

MR. METZLER: There is certain information that is to be supplied by the Department. I will endeavour to give notice to the Secretary when the information will be available so you will be able to fit it into your schedule as you go along.

THE CHAIRMAN: Thank you, Mr. Metzler.

Is there anything further you wish brought to the attention of the meeting?

THE SECRETARY: I would ask the members of the Committee to bring their briefs along for the hearing tomorrow.

THE CHAIRMAN: Yes. If there is nothing further I will declare the proceedings adjourned.

---Whereupon the proceedings adjourned at
2.50 p.m., to resume at 11.00 a.m. on
Wednesday, September 25th, 1957.

SELECT COMMITTEE ON LABOUR RELATIONS ACT

Volume No. 5

September 25 & 26, 1957

LEGISLATIVE ASSEMBLY OF ONTARIO

SELECT COMMITTEE ON LABOUR RELATIONS

Committee Room No. 1, Parliament Buildings,
Queen's Park, Toronto, Ontario

Wednesday,
September 25, 1957.

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| JAMES A MALONEY | Chairman |
| HAROLD PERKINS | Secretary |
| GEORGE T. WALSH, Q.C. | Committee Counsel |

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|----------|----------------------|
| MEMBERS: | G. E. Jackson |
| | Donald C. MacDonald |
| | Ellis P. Morningstar |
| | Raymond M. Myers |
| | Arthur J. Reaume |
| | H. Leslie Rowntree |
| | J. W. Spooner |
| | Albert Wren |
| | John Yaremko |
| | Robert Macaulay |

APPEARANCES:

Mr. J. B. Metzler Deputy Minister of Labour

THE NATIONAL COUNCIL OF LABOUR

| | |
|------------------|------------------------|
| James Young | President |
| Clive Thomas | General Secretary |
| George Chatfield | Executive Board Member |

THE CHRISTIAN LABOUR ASSOCIATION OF CANADA

| | |
|------------------|-----------------------|
| A. Matthews | President |
| A. Boersma | Vice-President |
| F. Fuykschot | National Secretary |
| G. van der Zande | National Board Member |
| H.E. Asseltine | Association Secretary |

THE CHAIRMAN: Gentlemen, this morning we are to hear briefs from The National Council of Canadian Labour and the Christian Labour Association of Canada. Who is to make the first presentation?

THE SECRETARY: Mr. Chairman, I would like to present to you and the members of the Committee the National Council of Canadian Labour who are represented this morning by Mr. James Young, the president, Mr. Clive Thomas, their general secretary, and Mr. George Chatfield, their executive board member.

THE CHAIRMAN: Who will present the brief?

MR. THOMAS: I will, Mr. Chairman.

Mr. Chairman and members of the Committee, the National Council of Canadian Labour is very pleased to have been asked by your Committee to present a brief on the operation and administration of the Labour Relations Act. We trust that our proposals may be of assistance to your Committee in preparing its report to the Legislature.

For the information of the Committee, the National Council of Canadian Labour was formed at an organizing convention held at Hamilton, Ontario, on September 15, 1948, as a federation of purely Canadian trade union groups, and it has functioned continuously since that time. At present it has affiliated unions in four Canadian provinces, including Ontario. Union groups affiliated with our organization have been certified by the Ontario

Labour Relations Board on numerous occasions during the past nine years, and we have always received prompt and courteous treatment from officials of the Department of Labour and Labour Relations Board.

With regard to the Labour Relations Act in general, we feel that it is in many respects a highly commendable piece of legislation, and as the result of amendments made from time to time in the light of practical application, we believe that the present Act is in the main eminently suited to the purposes for which it was intended.

However, as with most legislation, we feel that periodic re-examination is required in the light of new experience and new developments, and hence we welcome the opportunity to submit the following views and proposals at this time.

Section 1, subsection (1) -- definition of trade union: A provision should be added to this subsection requiring that the responsible officers in Canada of a group defined under the Act as a trade union shall be Canadian citizens. This is our suggestion. I might point out we are making the statement rather affirmatively, but you understand that is just our way of submitting our views. Reports indicate that even now some international union locals are under the trusteeship of union officials in the United States. We do not feel that this is a desirable situation.

Section 2, subsection (b) -- exclusion of agricultural industry: The words "agriculture, horticulture," should be deleted from the subsection in order to permit agricultural workers to obtain the benefits of the Act enjoyed by workers in most other occupations. While farm workers may form unions, it is not surprising that farm workers are almost completely non-unionized, because such unions could not obtain certification under the Act and legally compel employers to bargain. As a result, farm wages are much below those in other industries and there is a constant drain of workers from farms to cities. The situation is in marked contrast with various European countries, such as Holland, where we understand farm workers are highly organized.

Section 5 -- application for certification: This section should be clarified to permit a union to obtain certification at any time, despite the existence of a valid collective agreement, or else it should be made mandatory for any union seeking bargaining rights to apply to the Labour Relations Board for certification.

The Act permits a trade union to obtain voluntary recognition from the employer as bargaining agent under certain circumstances, but unfortunately this situation may create difficulties later for a non-certified union.

If the union applies to the Labour

Relations Board for certification for any reason after it has concluded a valid agreement, the Board will dismiss the application on the grounds that a valid agreement or certification are considered to be of equal value.

In the case of a non-certified union with a valid collective agreement, another union which is conducting a raid against the non-certified union can claim, and often does, that the established union "cannot get certified." This may easily lead the employees concerned to believe that there is something seriously wrong with the established union.

Now, I might point out that it could be stated in rebuttal to that argument, or it could be asked if that is the case, if there is a disadvantage prevailing in non-certified recognized union, why not get certification in every case when you first start out? I suppose that could be reasonably pointed out, but our point is simply this, that in the present Act the way is left open for a union under certain circumstances where there is not another established bargaining agency to obtain bargaining rights on a voluntary basis, to obtain voluntary recognition from the employer. That certainly is implied in Section 35 of the Act. Our point more or less is that the invitation is there and it is certainly going to be used

in various cases, but, unfortunately, groups who make use of that possibility do not always recognize or realize that afterwards they may be branded by unfriendly organizations as a non-certified union and unfavourable implications passed on their situation. That is the point of our submission on that section.

Section 6, subsection (2) -- craft units: This subsection, as applied at present by the Labour Relations Board, permits only craft unions with an established "history" and "background" to obtain bargaining rights for craft units, which, in effect, gives a monopoly to certain trade unions operating along craft lines.

Newly-formed craft unions are refused certification as such for units of craft employees, even though the members of such unions may be fully qualified craftsmen.

This seems particularly unfair because, in practice, we feel it amounts to denying to a worker the right to join the trade union of his choice, and also because no such corresponding record of previous activity is required in the case of newly-formed industrial unions seeking certification from the Board.

It is appropriate here to quote a news item appearing in the January, 1955 issue of "National Brotherhood News," organ of the National Brotherhood of Packinghouse Workers in the United

States. The N.B.P.W. is listed in the latest edition (1955) of the "Directory of National and International Labour Unions" published by the U. S. Department of Labour. The news item reads as follows:

"National Labor Relations Board Now
"recognizes Independent Craft Units

"A recent Board decision modifies
"a previous ruling involving craft
"workers. The new policy will pro-
"vide independent craft unions with
"equal recognition, regardless of
"their age or historical background, as
"long as they are desired by the workers.
"The union involved in this latest de-
"cision was the Tool and Die Craftsmen,
"Independent.

"The decision states that 'A union
"newly organized for the sole and ex-
"clusive purpose of representing
"members of their craft, in our view,
"can be as much a craft union as an
"older organization which has been
"representing craft members for many
"years. In fact, it is likely to be
"more strictly a craft union than
"some of the 'traditional' craft unions,
"which started as craft unions, but over
"the years became more industrial. The

"only difference between the well-
"established and the more recently
"organized craft unions is the factor
"of experience. But this, it seems
"to us, is a matter for the concern
"of the employees, not the Board."

We submit that this view of the National Labor Relations Board of the United States is eminently sound and reasonable, and should be incorporated into the Labour Relations Act of Ontario.

Mr. Chairman, since preparing this brief I have been able to obtain, or obtain the loan of a complete copy of that decision of the National Labour Relations Board of the United States, and I have an extra photostatic copy here which I would like to present to you for your reference.

Section 11 -- obligation to bargain:
This section should be amended to provide that, in cases where an employer does not cooperate within the period specified, the union shall be entitled to request the Labour Relations Board to order the employer to commence bargaining.

I might just say on that point, Mr. Chairman, and also on the previous point about craft unions, we have submitted those items in our brief in the light of our own experience and in connection with Section 11 we have found in some cases there is a tendency of slowness. Perhaps

the reason for such slowness on the part of the employer is quite justified in his mind. He may have a lot of other things to do, but we have noticed that sometimes there is a tendency not to respond promptly and get going on negotiations.

Section 12(1)(d) -- composition of bargaining committees: The last part of subsection (1) states that "in any case a bargaining committee may include one or more officers or other representatives of the trade union." This should be amended to require that such "officers or other representatives" be Canadian citizens, for the reason given above under Section 1, subsection (1).

Further with regard to section 12, a subsection should be added requiring that members of the operating management of a company should be required to take part in negotiations on behalf of the company.

In some cases, Mr. Chairman, the company will be represented by a completely outside individual, very often a lawyer, and while we have every respect for the legal profession we do feel that members of the operating management of an enterprise should be obliged to sit down with their employees in the important matter of negotiations.

Section 13 and following -- conciliation services: It has for some time been a common complaint of organized labour that the conciliation

process was unduly lengthy and time-consuming, thereby defeating its purpose. To the extent that this complaint is warranted by the facts and circumstances commonly involved, we suggest that consideration be given by the Committee to improving the conciliation process either by shortening the time limits required or increasing the size of the conciliation service staff so that quicker results may be obtained.

Section 35 -- binding effect of collective agreements: This section should be amended to provide that in cases of a change of ownership, where a business continues to operate without interruption, that a collective agreement in force shall continue to be recognized.

It is our understanding at the present that this is not the case and that a change of ownership eliminates previous bargaining rights.

Section 57 and following -- enforcement of unfair practices clauses: We believe the Committee should consider the advisability of placing the enforcement of the unfair practices clauses of the Act in the hands of the Labour Relations Board, in order to provide speedier redress. The Board could rule on a complaint and then issue a "cease and desist" order, enforceable when necessary by the courts.

Section 66 -- administration: It has

been the standard practice in the past to designate as representatives of labour on the Labour Relations Board persons connected with the Trades and Labour Congress of Canada, and the Canadian Congress of Labour, respectively. Since the merging of those two congresses into a new body, the Canadian Labour Congress, the two representatives of labour on the Board are in effect, the representatives of that Congress, which is composed predominantly of international unions.

While we believe that the members representing labour have always endeavoured to carry out their duties conscientiously and impartially, it is unfortunately true that unions not associated with the Canadian Labour Congress appearing before the Board may feel that their interests are not represented on the Board and that there is not a sympathetic understanding of their viewpoint. Indeed, we believe that the feeling for a long time on the part of independent and purely Canadian, bona fide unions not associated with the major congresses has been that the representatives of labour on the Board reflect only the views of international unionism.

Therefore, if the present arrangement of the Board is to be continued, we believe an additional member or members should be added representing those purely Canadian, bona fide union groups not

associated with the Canadian Labour Congress.

Consideration might also be given to re-organizing the Board on a full-time basis, in view of the growing volume of work that the Board is required to handle. There would also appear to be need for a larger staff to assist the Board with its work. For instance, the latest monthly Report of the Board we had received at the time of preparing this brief was for September, 1956.

I might say that as of now we have the report as of December 1956 so it is not as tardy as we indicated there.

In conclusion, we wish to thank the Select Committee on Labour Relations for this opportunity to present our views on the important matter of the operation and administration of the Labour Relations Act.

THE CHAIRMAN: Thank you very much, Mr. Thomas. Now, is there any member of the Committee who would like to direct any questions to the representatives of the National Council of Canadian Labour?

MR. WREN: Mr. Chairman, before we ask any questions, I wonder if the gentleman would explain a couple of terms on page 2? This is not with respect to the submission but I want to clear up what is meant where you are dealing with Section 5, application for certification. You say

on the third line of that paragraph:

" . . . or else it should be made

"mandatory for any union seeking

"bargaining rights . . ."

Do you mean by the word "any" ordinary trade unions and company unions?

MR. THOMAS: No. The implication there is -- well, yes, any bona fide union.

MR. WREN: Company unions or otherwise?

MR. THOMAS: Well, I will have to ask you to define your term, what do you mean by a company union, a one-plant union?

MR. WREN: Yes.

MR. THOMAS: The answer is Yes.

MR. WREN: Then, going down two more paragraphs you see:

"If the union applies to the Labour

"Relations Board for certification ---"

Do you mean a non-certified union?

MR. THOMAS: Yes, because there have been cases where a union holds bargaining rights, perhaps in an instance such as I referred to, where it was being needled by some other group on the score that it did not possess certification, has turned around and asked the Board for certification.

MR. WREN: My question there was simply, you mean to term that non-certified unions?

MR. THOMAS: Yes.

MR. JACKSON: Before the questions start, I wonder if Mr. Thomas would enlarge a bit on his reference on two occasions to the Canadian citizen trend that you have in your brief. I notice on page 1 at the bottom where you are dealing with Section 1, subsection (1), you state:

" . . . that the responsible officers
"in Canada of a group defined under
"the Act as a trade union shall be
"Canadian citizens. Reports indi-
"cate that even now some international
"union locals are under the trustee-
"ship of union officials in the United
"States."

Is your idea there to keep trusteeships in Canada solely Canadian? Would you care to enlarge on that thought and also where you refer to it again?

MR. THOMAS: Yes. The remark there, unfortunately, does not particularly reveal any view that we may have on the general idea of trusteeships. We merely mention that as an example of an undesirable type of foreign control. Quite frankly, our organization exists because we believe, as is mentioned at the beginning of the brief, in purely Canadian unionism and, of course, that is a very controversial matter, but naturally we are interested in furthering what we believe to be a

right and correct thing, to control all Canadian labour purely by Canadian officials. It is our understanding that at the present time situations can exist whereby a group in Canada can be controlled completely by citizens of another country and we do not feel that there is any justification for that. That is the purpose of our suggestion. That, let us say, is just the first step that the officials of unions in Canada -- let me put it that way -- whether they are purely Canadian or international, should be Canadian citizens.

Actually, while I do not believe it is stated there too clearly, the implication is that they shall be residents of Canada. We did not mean to imply a situation where a Canadian citizen may accept an appointment as an international officer of some organization in the States and reside in the United States. Actually what we mean was officers of Canadian unions should be Canadian citizens residing in Canada.

MR. WREN: Do you know of any instance where you referred to that matter of conciliation boards, do you know of any instances where the union's representative on the Board of Conciliation has been a non-Canadian?

MR. THOMAS: Offhand, sir, I do not.

MR. WREN: Does the Deputy Minister know?

MR. METZLER: There have been one or two instances where people from the United States have sat on conciliation boards on the nomination of a particular trade union.

MR. WREN: There is no restriction as to citizenship?

MR. METZLER: We have never attempted to put a restriction on who the union shall or shall not accommodate, save that we believe that people should be within a reasonable distance of the seat of that board. We would not want to accept anybody from Honolulu.

MR. WREN: On the other hand, we are imposing some form of law, shall we say, on the decision of these boards. I do not know whether it is right or wrong to have citizens of other countries on these conciliation boards. It seems
if
to me/we are imposing a law on our own people it may best be done by our own citizens.

MR. MacDONALD: If we are going to pursue this point, it seems to me that if the thing has logic in the proposition of restricting non-Canadian citizens from participating on the labour side, you would have equal logic in forbidding people who are non-Canadian citizens to participate on the management side. I would like to ask the gentlemen here do they think this particular principle should be extended to

exclude any non-Canadian citizen who is in management of a Canadian subsidiary in this trade process?

MR. THOMAS: As a general principle I think we would agree with that. Our organization is very much in favour of more actual Canadian management of firms which may possibly be foreign owned. Definitely.

MR. MacDONALD: Do you think it is a very practical proposition?

MR. THOMAS: I do. I think in the same way that this country has become sufficiently large and sufficiently mature that the labour movement can run its own affairs. I believe that Canadian business and industry have reached that point too. I can say that our organization is very interested in seeing the greater Canadianization of management.

MR. MacDONALD: Well, a lot of statistics have been made as to how this can be achieved. The Gordon Commission came up with a report that stock should be made available to Canadians and so on. If that is one of your basic tenets, has your group explored ways and means by which this Canadianization should be achieved?

MR. THOMAS: Not of industry, no, we have not sat down and faced the problem of the Canadianization of industry. As a labour organization we have restricted our thinking to the question of labour. But, may I say one thing in

reply to the further comment on the question of the gentleman next to you: our thinking on this question of officers in unions in Canada being Canadian citizens -- there is in the back of our minds the feeling that probably there is a legal implication involved if at any time an official of a labour organization in Canada -- it may be a citizen of another country and who may have been resident in another country as we believe there are such cases -- if there is ever a question of him having done anything unlawful that possibly might injure the interests of his members in this country, it may be a very difficult thing for anybody to get at it. He would be completely immune in another country. He could be promptly removed from his position by his superior officers but while we have not gone into that particular question it has occurred to us that there might be a legal question involved as to the answerability of such a man or such a person under the laws of this country.

MR. MacDONALD: May I ask this question on this particular point: Unless and until this submission regarding citizenship is imposed as far as management is concerned, do you not agree that this would impose a pretty severe hardship for unions if it is imposed on unions alone?

MR. THOMAS: Well, we have not been

presented with or discovered any specific hardship. You are stating a general proposition there, that because Canadian management or the management of companies in Canada is not exclusively officered by Canadians it would be unfair to impose that on labour organizations. As a general proposition ---

MR. MacDONALD: Let me give you a specific instance, which I mentioned yesterday, but of course you were not present -- the twelve-week old strike in the Canadian Laundry Machine Company. Here is the instance of a wholly-owned subsidiary of an American company which not only is wholly-owned but has a monopoly in the field in the Canadian situation, so when they got into industrial relations and they are bargaining, they cannot come to an agreement and there is a strike, the company closes down the Canadian plant, produces the stuff in the United States and brings it in and they can sit that way until they have accomplished their obvious intention of smashing the union as they have done in one instance before. Now, here is clearly a very difficult position, in fact, almost an impossible position with which Canadian labour is faced because of the fact that the management of the company is not really Canadian in any sense.

MR. JACKSON: Is that not a question

to take up with management rather than with labour?
I do not think it has anything to do with this.

MR. MacDONALD: He asked me for a specific case of where it is creating hardship for Canadian labour.

MR. MACAULAY: No, he did not ask you for a specific case. He said he knew of none.

MR. MacDONALD: Well, I have given a specific case.

THE CHAIRMAN: Gentlemen, order.

MR. YAREMKO: It would be interesting to know from Mr. MacDonald, would this be alleviated or assisted if the persons in the union activities were under the control of an international union? Would not employees be in a better position in this specific situation if they were represented by an international union?

MR. MacDONALD: They are represented by an international union.

MR. YAREMKO: And the situation still exists, they are having the difficulty?

MR. MacDONALD: The point I am making is, I am submitting this idea that people should be Canadian citizens, and I am taking the principle to the management side as well as to the labour side because my position is, if you are going to impose this restriction of citizenship on labour, it is going to be a very big hardship

if you do not put it on management.

MR. YAREMKO: Where would the hardship be?

MR. THOMAS: Mr. Chairman, may I say something? I can see -- I cannot say that I can appreciate your general proposition in a specific way -- but I will say this, and I am not going to mention any other organization, but you may recognize what I am talking about. Not too long ago there was a very serious, a matter of a couple of years ago there was a very serious large-scale strike in this province. This company is one of the most prominent international companies and the union is one of the most prominent international unions. The strike went on for very many weeks and all during that period the products of the company were being shipped across the border to Canada, being sold in Canada to the accompaniment of the howls of the Canadian members of the American branch. The union simply threw up its hands and said, "We have a contract with the company, we cannot strike or boycott the company or anything else," and nothing was done. In that case it was an international company and an international union, but those Canadian workers, many thousands of them, were all on their own and they bitterly complained in one of the Canadian papers that the American product, the same product only made in

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the United States, was being shipped across the border and being sold here and nothing being done by the international group. There is one example that is the reverse of your proposition; it would seem to discount it.

Just because you have an international union counterbalancing an international company does not necessarily mean ipso facto or of itself that one is going to successfully counterbalance the other.

MR. MacDONALD: I agree it does not. I suggest perhaps the place to check that unfortunate development of circumstances would be at the Federal Government level with regard to our tariffs on imports.

MR. REAUME: Mr. Chairman, I wanted to ask a question. I do not see how a person can take the stand that they are opposed to the flow of American money into Canada and crying out about these red-blooded strong people of Canada -- why do they not take charge of everything -- and that it is no good for industry and capital. Why do you take the opposite stand so far as unions are concerned, Mr. MacDonald?

MR. MacDONALD: I thought you were addressing your question to Mr. Thomas.

MR. REAUME: I am merely asking you this: You in one breath say that you are opposed

to American capital flowing into Canada ---

MR. MacDONALD: I never said I was opposed to it.

MR. REAUME: That industry in Canada ought to be controlled by the people of Canada and now you take the opposite stand in respect to unions. I am referring to ---

MR. MacDONALD: I am sorry, but Mr. Reaume has successfully confused this so that I cannot understand what he is saying.

MR. REAUME: I do not think so. I am now referring to a speech that you made in the House where you attacked, I think, the flow of American capital into Canada and the controlling of the industries of Canada by the people of the United States, and now you are taking the very opposite stand.

MR. MacDONALD: I am not taking the opposite stand.

MR. REAUME: I think you are.

MR. MacDONALD: Well, this is an extraneous point.

MR. REAUME: It is not, you are ---

THE CHAIRMAN: You are the one who brought it up.

MR. MacDONALD: No, pursuing it now I can argue for an hour if you want to. As a matter of fact, I can quote you chapter and verse about a

Conservative at Ottawa -- about the undue flow of American money into this country. That was a cabinet minister of this country who sounded off in the House of Commons.

MR. THOMAS: Mr. Chairman, for what it
on
may be worth,/this particular question of international unions versus Canadian unions and Canadian companies versus internationally-owned or controlled companies, our feeling always has been that if that situation prevails to quite an extent -- as I think we all realize it does -- that particularly in some activities there is a high percentage of foreign ownership and we are not saying that in itself is bad -- I mean, they are not necessarily ruining the country, but we do feel as a labour organization that it is particularly important that the Canadian employees of any foreign-owned company should have their own Canadian union to be there with the Canadian viewpoint with respect to them and labour will be adequately presented.

I believe there are instances -- one that came out a matter of one or two years ago -- the pipe line being built across Canada. The agreement covering those workers -- they were covered by international groups. The company apparently -- or the contractors building the pipe line -- was, I believe, an American company and the agreement was signed in the United States between

union officials and the company and the employers -- I believe an association of employers without any direct reference to the Canadian members or participation by Canadian officials.

We are not implying in that case that anything was done detrimental to the interests of the Canadian workers involved, but such a situation could arise. We feel that there is a possibility of that danger.

Now, these remarks may be extraneous to whatever was being discussed but I thought it might be of interest. That is our position. If there is all of this foreign ownership we feel, from our viewpoint, it should be counterbalanced by unions with a Canadian viewpoint.

THE CHAIRMAN: You did make reference to a strike that had occurred. When and where was that strike?

MR. THOMAS: The strike I had in mind was the last strike in Canada against the Ford Company of Canada by the United Autoworkers and all during that unfortunately long, drawn-out affair one paper in particular -- well, two papers, the United Autoworkers and the Windsor Guardian -- were protesting violently against the continual flow of automobiles across the border, and yet never once in those publications did we see any suggestion that any action was taken by the



American branch of that union. Now, I suppose their answer was that they were under contract with the company in the United States and legally they could not. So we drew the conclusion there was not much value and effect in balancing an international union against an international company in that particular instance.

MR. MacDONALD: The logic of your argument is, it was a strike in Canada. What you want to do is spread it all across the North American Continent.

MR. THOMAS: That is not the implication I had in mind. I was merely sticking to the point that in that particular case the union certainly was not much help to the Canadian workers who got their throats cut by the action of all these cars being imported.

MR. MacDONALD: Well, they got their throats cut but I would suggest for your consideration it was because the Government was controlling the importation of cars and was not willing to stop the importation of cars.

MR. REAUME: What actually happens is, when you are importing cars into Canada and putting a specified amount of tariff on them there was not anything they could do.

MR. MacDONALD: That is what they are doing in the Canadian Laundry setup.

MR. THOMAS: I do not think in this particular case that comes within the discussion as to what should or should not be the policy of the Government of Canada. You merely raised the point and we validly claim that unions should be Canadian if companies are international, and I was merely replying to that.

MR. YAREMKO: It seems to me Mr. MacDonald's point is not very well founded. Here is a union being represented internationally and Mr. MacDonald would have the Government impose a higher tariff on a specific article in order to assist ---

MR. MACAULAY: Not just one article, but coming from that one plant.

MR. THOMAS: May I suggest that perhaps we should get back to the actual specific proposal in our brief. I mean, I think we have wandered a little far afield actually. All we are proposing, you might call it the first step, if you wish, in a new direction. All we are proposing is that whether or not you have national or international unions that the responsible officials in Canada be Canadian citizens and residents in this country so they will be answerable to this country. At the present time we are not proposing anything beyond that. Anything else we have discussed is more or less drifting a little further afield.

MR. REAUME: I want to ask a question in that respect. You were speaking of the Automobile Workers: is it not true that the officers of the Automobile Workers are residents of Canada? For instance, George Burt is the head man of the Automobile Workers in Canada. How far do you want to go?

(Page 612 follows)

MR. THOMAS: Well, as far as the automobile workers are concerned, for all I know and I have no specific information, all front officers may be Canadian citizens and everything may be fine in that direction. The union we particularly had in mind, and to be quite frank, one that has gained a great deal of publicity over quite a period is the Teamsters' Union. We understand the situation may be changed now. There may be cases of other unions where a man in Detroit controls the local in a province who are under a trusteeship and the trustees are answerable to him. That is our understanding. We understand there are other cases. Just recently a local in Hamilton put under a trusteeship and we do not think it is right -- an official in another country, not answerable to the laws of this country, should have sweeping powers over groups of people situated in Ontario.

MR. REAUME: I would like to mention one point, going back for a moment to the automobile workers; in the early stages of the union, I daresay, if it had not been for the help they got from their brothers in the States, they would not have been able to go out and do the organizing job that was

done, and that is applicable not to the Teamsters. That was in the early stages and, I suppose even now, there is much more money being poured into the persons being organized than is actually being taken out in dues. International unions were formed for the very purpose of gaining strength and for the very purpose of helping each other.

MR. THOMAS: We are not going to argue with you on that point. We never have. We are quite willing to recognize that the assistance given to Canadian labour by American organizations have been very valuable in years gone by and much appreciated. Our stand today, broadly speaking, and it is open to argument and it is arguable, that that day is past in most cases and with nearly 1-1/2 million organized workers in this country, we feel the tendency should now be towards a greater degree of national control. That is our answer.

MR. REAUME: Unions over here would not want to take that stand after having received all the help in the early days and due to the fact now that we are big and strong you want to say to those people over there, go and take a hop in the ocean. I do not think that is a proper attitude.

International Union, for good reasons or bad, there are many legal and constitutional ways in the constitution of every International Union so that a local group or an area group or a branch can be effectively put in its place.

MR. REAUME: In answer to that, I want to say I think there are very few want to break away.

MR. THOMAS: I think, sir, if you were to go into the situation, you would find there are more than you think desire it. At a series^{of}/International Union conventions held last year in the United States, at a number of them including unions of some of our largest organizations, there were proposals made by the Canadian membership -- in a number of cases we published details of that in our paper -- demanding greater autonomy and certainly that is a trend in that direction. Then there have been cases even within recent months where a local of tunnel workers in British Columbia definitely tried to break away from the International group, and if they don't succeed it is very easy to see that the International officers are going to crack down.

MR. MacDONALD: I want to explore

that a little bit further, if we can do that without getting into the ramifications that will carry us too far afield. Just because Canadian unions want to establish greater autonomy does not necessarily mean **they want to break away** from the International Union.

MR. THOMAS: No, not necessarily.

MR. MacDONALD: That seems to have been a conclusion implicit in your comment. The cases are very few and far between.

MR. THOMAS: When you get to the point of demanding full and complete autonomy may not the next stage logically be -- Canadians say, we love our American brothers and we will always march shoulder to shoulder with them, but why should we be under International officers; why can't we have our own purely Canadian set-up?

MR. MacDONALD: If they love their American brothers and want to march hand in hand with their American brothers, they must realize the management is marching hand in hand too.

MR. REAUME: The U.A.W. in Oshawa surely must feel that when the policy is laid down in the United States it puts that union in a much stronger position if they have the backing of the U.A.W. across the United States

When the master corporation is in the United States.

MR. THOMAS: I do not wish to keep harping on the U.A.W.; we are certainly not here to criticize them or single them out in any way. There was in a recent edition of the Canadian Journal of Political Science an article by a man whose name I cannot remember for the minute on International Unions as in Canada and it was pointed out there that one of the unfavourable features of International Unionism was that very often healthy decisions taken in the United States by an American group is opposed holus-bolus on the Canadian scene and is not always applicable. The illustration given was a policy decision made in the United States by the U.A.W. which, when an attempt was made to apply it in Canada, elicited very strong protests from the Canadian members because it just did not fit the picture. So, I do not think it is always true.

MR. REAUME: I never heard of that one before.

MR. THOMAS: I cannot tell you the details, but it was in the second to last issue of the Canadian Journal of Canadian Political Science. It is a full length article and a

rather important article on International Unionism in Canada. I cannot think of the name of the author right now. Sometimes policies conceived in the States are arbitrarily applied and that instance was given. You refer to services, sir, and it was also pointed out in that article that sometimes the research staffs are based in the United States at certain given points, and they are not always particularly well equipped to give technical service to the Canadian membership.

MR. MacDONALD: Nobody will deny there may be deficiencies in terms of service to the Canadian membership, but to draw the conclusion from that that the Canadian membership wants to break away or think it desirable to break away, I suggest is a completely false opinion.

MR. THOMAS: That is our opinion. We feel that it is desirable that they break away and in many cases the Canadian worker, when they think it over, want to break away.

MR. MYERS: Can you give us some specific cases; you say in many cases the worker wants to break away. Can you put it in a more specific way?

MR. THOMAS: I think I said in some

cases, sir. The way in which we come to that conclusion --

MR. MYERS: I rather distrust conclusions unless I can get some facts. Could you support what you have said with specific facts?

MR. THOMAS: Off hand I cannot give you a lot of detailed examples, because we did not come here today prepared.

MR. MYERS: I think it is a very important matter and I am not ready to accept a conclusion unless it is supported by facts. I would very much like to get some of these facts.

MR. THOMAS: We can furnish them.

MR. MYERS: And I think the other members would be very glad to have them too.

MR. THOMAS: I cannot do it right now. That was not one of the points in our presentation and I did not come here prepared with a lot of statistics.

THE CHAIRMAN: In any event, Mr. Thomas, your submission is a provision should be added to the Act that responsible officers in Canada of a group defined under the Act as a trade union shall be Canadian citizens.

MR. YAREMKO: Before we leave that, and I thought Mr. Macaulay would raise this point as it is of great interest to him: In

Section 1 you have set out the specific instance of where it is a matter of a trusteeship. Would this situation be cleared up if certain provisions were made in respect of the duration of the trusteeship and how and when a trusteeship could come into effect. Would that alleviate the situation to some degree apart from going to the full extent of having the responsible officers Canadian citizens.

MR. THOMAS: I think so, sir.

MR. YAREMKO: I am of the opinion it would alleviate the matter.

MR. MACAULAY: Did I understand you to say that your association is in favour of or opposed to trusteeships?

MR. THOMAS: That is not the point.

MR. MACAULAY: Then could I ask you that question? Are you?

MR. THOMAS: I cannot answer that because in our particular organization at the present time the National officers do not have the power to impose a trusteeship on a local group so that it has never become a question on which policy or decision has been made.

MR. MACAULAY: So you are presenting no view as to whether a trusteeship is a good thing?

MR. THOMAS: We are merely implying that trusteeship involves the withdrawal of the rights of self government which should be considered a very bad thing. We are saying that at least the administrators of such a trusteeship should be a Canadian citizen.

MR. MacDONALD: May I explore this trusteeship a bit further. It seems to me we have a rather interesting situation and Mr. Thomas is likely aware of the fact that the committee has discussed this a number of times and will again before we come to some decision. You say you have no power to put a local union under a trusteeship.

MR. THOMAS: That is right.

MR. MacDONALD: Then how do you cope with a situation that might arise with a union affiliated to your own C.C.L. by its policy which has been laid down if, for example, the unfortunate situation arose of a union executive absconding with funds or anything of that nature? How do you cope with that situation?

MR. THOMAS: You used the expression affiliated and our branches are precisely the meaning of that word. As a point of information, if you are interested, I should like to tell you that we do have the authority to expel.

and to suspend and then obtain expulsion from a convention. Other than that, in our particular organization, the National officers do have a certain amount of moral influence, and certainly we would act very promptly to use our full influence if any undesirable situation arose. From your standpoint this may not be considered as adequate powers, but that just happens to be the situation in our group. We do not have trusteeships.

MR. MacDONALD: This may be a question that I should not put to you; if your group has not made up its mind, could I ask if you, personally, would express an opinion as an alternative to expulsion in the event of an unfortunate situation in which the interests of the membership are not being looked after in a proper manner. What would you suggest as an alternative to expulsion? Would you consider the proposition of a trusteeship for a temporary period until the matter was cleared up and then handed back to the local officers. Would that not be a more feasible alternative?

MR. THOMAS: I agree with that. There have been trusteeships where it is fair and no view attached. In Nova Scotia

there is one union that has been under trustee-ship for 15 or 20 years just because of a personal situation. In answer to your question as a general proposition, providing it has been done fairly and rightly and not indefinitely prolonged, we do not see anything wrong with that.

MR. MACAULAY: Expulsion does not do much to protect the members of that local of the example mentioned where someone has run off with the funds. Just expelling the whole group does not solve the situation.

MR. THOMAS: That is quite true, but that is something that has never occurred in our organization. It is a very extreme example.

MR. MACAULAY: Would you mind telling me a little more about your organization? How many locals or associations do you have and how many employees? What is your membership?

MR. THOMAS: Our president, Mr. Young just gave that information a minute ago before the hearing started. It varies between 7,000 and 8,000. I say it varies because you are familiar with labour organizations and in certain industries membership fluctuates according to the season. In such industries as

construction and others. Our local numbers approximately 40.

MR. MACAULAY: How many do you say, or how many does the Dominion Bureau say, or somebody say, as to how many people belong?

MR. THOMAS: I believe we were listed in the last Labour Report of labour organizations in Canada with about 6,500.

MR. MACAULAY: How many people belong to labour unions in Canada.

MR. THOMAS: I think it is 200,000 or 300,000 -- something like that.

MR. MACAULAY: What kind of an association have you got? What kind of locals do you have representing what kind of industry?

MR. THOMAS: We have affiliated local unions in many branches of industry; steel manufacturing, rubber manufacturing, textiles, construction, electric industries, batteries -- an amazingly wide variety.

MR. MACAULAY: What is the largest single local?

MR. THOMAS: A local of approximately 500 members.

MR. MACAULAY: Which is that?

MR. THOMAS: Do you want the name of the local union?

MR. MACAULAY: Yes, sir.

MR. THOMAS: There is one in Toronto; a union of Business Machine Workers which is not quite that large, but is approaching it. Another is a union of Steelworkers in Galt. These local unions have their own union names. The Toronto one is the Canadian Business Machine Workers Union and in Galt the Canadian Steelworkers Union.

MR. YAREMKO: As a point of interest, you say now it is about 7,000. Has it been gradual growth or have you remained at 7,000 for some years?

MR. THOMAS: It has been a gradual growth.

MR. ROWNTREE: Are you inside or outside Labour Congress?

MR. THOMAS: We are outside for precisely the reasons discussed at great length. The C.L.C. recognize International Union and we do not.

MR. ROWNTREE: A difference in fundamental philosophy between your group and the other group.

MR. THOMAS: That is right.

MR. ROWNTREE: And am I right in saying your emphasis in your brief was directed to more autonomy within the Canadian union movement?

MR. THOMAS: Yes, sir.

MR. ROWNTREE: Are you unalterably opposed to affiliation with an international body?

MR. THOMAS: We are, sir.

MR. ROWNTREE: Unalterably?

MR. THOMAS: Unalterably.

MR. MacDONALD: Pursuant to the point raised by Mr. Rowntree; there are many locals in the Canadian Labour Congress which are not International affiliates at all, and they have seen fit to become a member of the largest, if not the only, Canadian labour group. What is your objection to going in and sort of strengthening the hand of the Canadian locals in trying to achieve their purpose.

MR. THOMAS: Our objections are simply these: A number of directly chartered locals of the present C.L.C. and of the previous T.L.C. and the C.C.L. were a very small proportion of the total membership in this congress and the undesirable feature of that small proportionate group was indicated at a convention of the Canadian Congress of Labour some two years ago -- not the last one they had but perhaps the second to the last -- whereby the views of a federally chartered local union were raised

from \$1 a month to \$2 a month. On that occasion the delegates at that convention of the federally chartered unions were a clear and distinct minority. They could have all been completely opposed to any increase in their dues, but since the delegates representing the International, whose dues are much higher, voted for it, there was nothing they could do to stop that enactment. So we simply say, once more reflecting our unalterable viewpoint, that you cannot mix the two.

MR. MacDONALD: Do you happen to know what the membership is of the direct affiliates? This is just a matter of information.

MR. THOMAS: It seems to me in one of the two former congresses they said it was 15,000 or 30,000; something like that. I could be completely wrong, but I do not believe it is more than about 40,000 or 50,000 in the C.L.C. today. It is not a large proportion and the policy, as I understand it, merely from press clippings and so forth, is to integrate as quickly as possible as many of those directly chartered unions in the proper International Union. They are not trying to build up a large body of directly chartered unions. Our understanding is that it is purely a stop-gap

method.

MR. MacDONALD: I think you are right; if you totalled the figure of those organized directly chartered affiliates, you would have hundreds of thousands. I may be wrong, but certainly more than the 40,000 you suggest. But in each instance, is it not the case the decision of these directly chartered unions to join the International Union is made by the membership of that local?

MR. THOMAS: I am not aware if there is any arbitrary power possessed to arbitrarily withdraw a federally granted charter and insist that a group be given an International charter. Of that I am not aware. It could be.

MR. MacDONALD: I think you will find it is the decision of the membership.

MR. THOMAS: But the only point I make is that they are a minority within their own congress and cannot run their own affairs.

MR. ROWNTREE: Do your members have a vote in the affairs of the union?

MR. THOMAS: Yes, we hold a convention every year at which delegates represent all our affiliated members.

MR. ROWNTREE: Is there any branch of your operation where the right to vote is

restricted in any way?

MR. THOMAS: No sir.

MR. ROWNTREE: Is there more than one class of membership?

MR. THOMAS: No, sir.

MR. ROWNTREE: You do not have work permits without full membership?

MR. THOMAS: No, sir.

MR. ROWNTREE: Apprentices?

MR. THOMAS: They are all on the same basis; full voting rights, the right to hold office is open to all members of a local within their own organization and local affiliates, in fact, run the National organization and the central organization.

MR. WREN: Is any portion of the dues of your local members directed to any political group?

MR. THOMAS: No, sir. That is one of our original tenets that has existed since our formation -- there should be no connection between a labour organization and a political group.

MR. MYERS: Do you account for your funds to your members?

MR. THOMAS: Yes, sir. Every year, approximately in February, there is a financial

statement.

MR. MACAULAY: What about the local; are they required by the constitution to provide any kind of statement to their membership?

MR. THOMAS: Yes, sir. Under their own local constitution they are required in all cases to do so, and they are also required under the constitution of the central organization to submit their financial statement to our office.

THE CHAIRMAN: Shall we proceed to page 2, section 2; exclusion of agricultural industry. Briefly, Mr. Thomas, what you mean is that you want the benefit of the Act extended to the agricultural workers and the horticultural workers?

MR. THOMAS: Yes, sir.

MR. YAREMKO: Mr. Thomas, have you had any direct, specific experience within that field, or is this just a conclusion you have come to?

MR. THOMAS: This is a conclusion, you might say, based purely on humanitarian motives. We have had no direct experience, but industrial disputes frequently come to our attention. There are large masses of agricultural workers who have never been in a position to attempt to do very much in that

field. We have always felt, as a matter of principle, that it was wrong. Their ability to organize should be facilitated under the Labour Act. And now, sir, there has been no direct experience by ourselves in that field.

MR. YAREMKO: Have there been any activities, to your knowledge, within the field, indicating they would like to organize.

MR. THOMAS: I once made an inquiry and the only union of agricultural workers I could discover was a union, and it must have been very small, on a farm of Trappist Monks in Quebec. Someone told me there was such a thing, but apart from that I have been completely unable to discover any union of the farm workers.

MR. MACAULAY: You refer to Holland; what about Holland?

MR. THOMAS: My understanding is, in Holland and other various European countries, agriculture is almost completely organized.

MR. MYERS: Do you not think the effect of organizing labour might be to put the small farmer out of business and put farming on a massive scale?

MR. THOMAS: You know what they said a few years ago about unions: That unions would put the small business man out of business.

I do not think that has happened, and I do not see why it should happen. But perhaps you are assuming that a farm labour organization would be set up on the same basis as an industrial union, and I do not think that would necessarily be so. You might find that farm organizations can be organized on some sort of area basis. There are examples in Great Britain of unions, I believe, where the members are at large.

MR. MYERS: I was thinking of a farmer getting old and needs a hired man and gets one at a wage he can afford to pay. If he had to pay the set wage to his helper he would, probably, have to go out of business.

MR. THOMAS: I think the Labour Act, as it reads, specifies that any group of two or more employees can be certified within the various industries so that a one-man staff would be excluded.

MR. JACKSON: May I ask a few questions, Mr. Chairman?

THE CHAIRMAN: Certainly.

MR. JACKSON: Mr. Thomas, your idea here is merely the workers on a farm; not the owner? Am I right in assuming that?

MR. THOMAS: That is correct.

MR. JACKSON: Do you have any thought

as to how you would define horticulture and agriculture?

MR. THOMAS: No.

MR. JACKSON: You want to include them in the Act?

MR. THOMAS: We have not given that any thought. I noticed a very interesting discussion on that point in the proceedings we have already received of your Committee -- just on that very particular point. However, we have not given it any thought ourselves.

MR. JACKSON: Your idea here is merely to raise wages; your purpose of organizing these workers is to raise their wages? Is that your idea?

MR. THOMAS: Our feeling is this: That in the same way that labour legislation some 20 years ago greatly facilitated the unionization of workers in industry and facilitated the implementation of their rights, so we feel that the extension of the Labour Act would lead, by the very existence of the Act, to the unionization of farm workers.

MR. JACKSON: But you have to direct it. You say you want to improve working conditions which is one of the principles behind the union and so, therefore, really

your direction is towards increasing wages, as you infer.

MR. THOMAS: I believe, perhaps, some increase might result if union efforts were successful.

MR. JACKSON: Do you think there would be other benefits?

MR. THOMAS: I imagine so. We have not made a detailed study of farm unions in other countries, but I am sure there are other benefits.

MR. JACKSON: What I am getting at is this: why would you make this suggestion; it is your request.

MR. THOMAS: As I said right at the beginning, it was on general humanitarian grounds. We do not see why the farm worker should be the forgotten man in the labour management set-up.

MR. JACKSON: And the next question is, how do you propose to help?

MR. THOMAS: Our proposal is, first of all, to establish their rights under the Act and then, as happened in the United States for example, after the Wagner Act was passed, energetic groups of men soon found ways of implementing the rights conferred by the Act.

MR. MACAULAY: In agriculture?

MR. THOMAS: No, no, industry. We think it would be desirable to have the same

extension in agriculture.

THE CHAIRMAN: Would it be fair to say there has been no request from agricultural workers to your group as an organized body?

MR. THOMAS: There has been no request to our organization but, I believe, there have been to others.

MR. MACAULAY: Is there anything, Mr. Thomas, in the United States of the nature that you are suggesting? You see, I think there is a difference between the geographical layout in Great Britain and Holland and so forth. The bigness of the country and the farms and management, especially, of which you can have some control in a small unit, but in this country where farms are as large as they are and land, separated as it is, would there be anything in the United States that would be comparable.

MR. THOMAS: I believe this whole discussion was restricted to one problem and I do not think we have to take into account the vast acreage of the Prairies.

MR. MACAULAY: We are interested in knowing where else the legislation you propose has been indicated.

MR. THOMAS: I am not familiar with the legislative set-up in the United States.

All I know is that there is an International Union of Agricultural Workers which over a period of some 20 years has had a very hard time and, I gather from that, the legislative position in the United States is not much better than it is here.

MR. MACAULAY: Are agricultural workers included in Saskatchewan or in the Western provinces legislation?

MR. THOMAS: As far as I am aware, in no Canadian Labour Relations Act.

THE CHAIRMAN: Shall we proceed to Section 5; Application for Certification.

MR. MacDONALD: Would it be possible to tell me whether the wages you have obtained for your local members compare favourably with the wages prevailing in unions involved in the same kind of business.

MR. THOMAS: Yes, sir, and that is something we take considerable pride in. In a number of cases of our affiliated unions, our wages are equal to comparable companies in the same business.

MR. MACAULAY: I have heard it said of your organization that there are affiliates in it to which, perhaps, there has been a paternal hand extended by the company with whom they have

operated. That may be a most unfair statement but I am simply asking for your observation.

MR. THOMAS: I think it is most unfair and it is a favourite line that has always been used by the group opposing us. I think they are inclined to confuse the very desirable good labour relations which I think every union should try and build up with the company with which it deals, but that is not fraternalism. I think they are just confusing the issue.

MR. MACAULAY: Is your strike record pretty good? I do not mean a good record as to having a lot of good strikes. What is your industrial standard of peace?

MR. THOMAS: The standard of our industrial peace has been 100 per cent.

THE CHAIRMAN: No strikes?

MR. THOMAS: That is right. There are some who have criticized us violently on that score and who draw very unfavourable conclusions from that. We take the opposite stand; we say our industrial relations have been sufficiently successful so that a strike has never had to be seriously considered. I wish to make clear that we are not opposed to strikes as such. As a labour organization we recognize they may be needed.

MR. MACAULAY: I would not think you would last long as a labour organization if you were opposed to strikes.

MR. THOMAS: We do not believe in unnecessarily pulling men out on strike, and we have never been in a situation where that has been necessary. I also would like to state that in some cases the rates that have been won and the working conditions won by some of our locals compare with or, rather, are better than the rates in comparable companies in the same industry.

MR. MACAULAY: That infers that some are not.

MR. THOMAS: That is right, and by the same implication there are locals of other unions, including International Union, where they have not achieved very much. It is a mixed picture in our organization as in other organizations.

MR. WREN: Have you gone to conciliation in any case?

MR. THOMAS: We have but in not too many cases.

MR. MYERS: Is your head office in Ottawa?

MR. THOMAS: In Ottawa.

THE CHAIRMAN: Shall we proceed to Section 5, Application for Certification.

MR. ROWNTREE: Is it your suggestion, Mr. Thomas, that following a voluntary agreement with the company there should be something in the Act which would give union status of certification automatically.

MR. THOMAS: That is right. Our point is simply this: The door, under the present Act, is open. Provided there is a recognized bargaining agency for a union to obtain voluntary recognition from a company, and if any union does that, it is open to the charge afterwards by a hostile group that it is not certified and in the eyes of many workers and the public generally; certification confers a bona fide stand, or something of that nature on that group. Today we insist that the groups we organize get certified, because it has come to our attention that groups who have established their bargaining rights by voluntary recognition are belaboured by other organizations on the grounds that they are not certified.

MR. MACAULAY: What is wrong with applying for certification after you have an agreement?

MR. THOMAS: There is nothing wrong

except that the Department of Labour will probably dismiss your application and tell you you already have bargaining rights.

MR. MACAULAY: Once you have obtained that you cannot become certified?

MR. THOMAS: I cannot speak for the Board, but that has been our observation.

MR. MACAULAY: Do they say it is because you have reached an agreement that you are a company dominated union?

MR. THOMAS: No, no, they say you have what appears to be a valid agreement and under Section 35 you have the rights of certification.

MR. MacDONALD: Are all your locals certified?

MR. THOMAS: Not all.

MR. ROWNTREE: If you have all rights of certification, what more do you need?

MR. THOMAS: I would like to explain: Some of our local unions antedate our particular organization.

MR. MacDONALD: Have you tried to persuade them to seek certification?

MR. THOMAS: We do not try to persuade them, but in one or two cases they would like to get certified, and we have to explain to them that they would be just wasting their time;

you have established bargaining rights and the Board would dismiss your application. As I have stated, it is because of that situation we insist all our new groups obtain certification. It seems to create an unfair situation. We thought we would bring it to your attention.

MR. MACAULAY: How many of your 40 affiliates are certified?

MR. THOMAS: About 80 per cent; 30 or 35. They all have bargaining rights, but in a few cases, apparently, bargaining rights were obtained by voluntary recognition, which is not forbidden under the Labour Relations Act.

MR. MACAULAY: When the agreement ends, could they not apply then for certification?

MR. THOMAS: I will tell you of a situation that arose. One of our group wished to obtain some special certification because they felt -- I cannot think of the details right now, but for some reason --

MR. MacDONALD: Was it conciliation?

MR. THOMAS: You can get conciliation, I believe.

MR. MacDONALD: Without being certified?

MR. THOMAS: I believe so, but I would

be glad to be corrected if I am wrong. This group had been negotiating agreements for many years. It has its bargaining rights, but for some reason --

MR. MacDONALD: Perhaps Mr. Metzler would tell us what the practice of the Labour Relations Board is in a situation of this kind.

MR. METZLER: After all, the purpose of certification is to create a bargaining right and then you follow the procedures under the Act to get collective agreement. The organizations Mr. Thomas refers to have obtained voluntary recognition and signed collective agreements. They are not barred from requesting the assistance of the conciliation services on their rights established.

MR. MACAULAY: It makes them into some other kind of animal. What is wrong with obtaining certification?

MR. METZLER: I don't quite follow that it makes them into another kind of animal.

MR. MACAULAY: Assume that it does not; why can they not be certified?

MR. METZLER: What will certification do for them?

MR. MACAULAY: I do not know.

MR. YAREMKO: Supposing I was one of the union trying to negotiate a collective agreement and each time I was safe with the remarks, this union is not good, you could show the employer your rights under Section 35 and prove to the employer you have all the rights of certification, then this problem would not exist.

MR. THOMAS: Of course it would not, and that is the line that is advanced in such cases but it is not too effective, and you have the feeling that among the workers certification is the magic word.

MR. MACAULAY: It is like being born from a legitimate marriage.

MR. THOMAS: As much as you may try to convince a group of workers that technically it is the same thing, there is a tendency to disbelief. We are not merely speaking from our own experience in connection with that problem. That has been the situation as we have observed it in general. Industrial groups other than our own, in Ontario industry, have had the same experience and that is why we are bringing it up.

MR. MYERS: How is it worked in other

provinces; do you know?

MR. THOMAS: I could not tell you off hand, but I do believe in the province of Quebec any group can apply for and obtain certification regardless of their bargaining standard and whether they have a contract or not. I am subject to correct on that if I am wrong, but I do believe in Quebec they can get certification at any time.

MR. REAUME: After a union has a bargaining agreement with the company, even though it would not help, would there be anything wrong if the Board was to certify that union? After all, if it is going to help, even though it is not necessary, perhaps it should be done.

MR. METZLER: I would counter your question with a statement on the broad general picture. The problem, if there is the problem to which Mr. Thomas refers, is just as inherent in the position of many other trade unions. I would hate to try and give you the proportion of the number of people who are organized in the province of Ontario that have obtained voluntary recognition. There have been unions that have been bargaining in this province for at least 120 years and

they are not certified. There have been unions that antedate any bargaining legislation under the I.D.I. Act which was the forerunner of the present legislation, as far back as 1907, and there have been groups bargaining farther back than that. Most of the unions, for instance, in the construction trades who are well organized and are in the largest centres are not certified. They have obtained their bargaining rights on the basis of voluntary recognition many years ago. This problem is not one that is faced only by Mr. Thomas' organization nor do we see these other groups worrying about the nature and extent of the rights that they have had conferred on them.

MR. MACAULAY: Assuming that this committee came to a different conclusion than the conclusion you have come to, namely that there are not enough people pressing for it, say it is not important. What is the objection to granting certification to a local union that has another agreement.

MR. METZLER: The objection is inherent in the legislation. The legislation itself indicates a collective agreement has full force and effect under the legislation.

MR. WREN: Would you say, Mr. Metzler,

that if a union is not certified under the Labour Relations Act and is bargaining under a voluntary agreement, that that union is subject to continuing raids.

MR. METZLER: No, not any more than any other union who is bargaining under a collective agreement.

MR. WREN: When a union is certified, there is a time element.

MR. METZLER: The same thing holds with any union that has an agreement.

MR. WREN: During the life of that agreement.

MR. METZLER: In other words, an agreement must run for ten months before you can apply for displacement. Mr. Finkelman, in his observations yesterday in respect to operations of the Labour Relations Board talked about timeliness in which he indicated that there is not only the factor of the usual time limit, but there is a timeliness and you cannot try to displace another union until such time as the open season arrives which is, I would say, in the last two months of the operation of the collective agreement.

MR. MACAULAY: Your basic objection is that it is redundant.

MR. METZLER: It is redundant.

MR. MACAULAY: All right, so what is there in being redundant.

MR. METZLER: I cannot debate that with the members of the committee because of the fact that the legislative position is established.

MR. REAUME: I do not know the exact meaning of the word you used.

MR. MACAULAY: It is a fellow who wears two belts and one pair of pants.

MR. REAUME: I was just wondering -- here we have an instance where it is not going to do any good and it is not going to do any harm, and the gentleman here says in his case he thinks it will help him. I was just wondering if we should not give some thought to the working out of a preamble in connection with this Act, so that an ordinary layman can read it and understand the spirit of the law and what it means without going through all these various sections. We have an instance here today where if we had had a preamble outlining and stating the spirit of the Act and also of the Government -- I suppose we should not even be speaking about that now -- it would be of considerable help. I would think one of the important things in connection with the

entire Act would be the preparation of a preamble that would spell out these things for you and other people.

MR. MACAULAY: We do not have a preamble in other Acts.

MR. YAREMKO: Even if there was a preamble it would not stop people from saying, your union is not certified.

MR. REAUME: It spells it out for them.

MR. YAREMKO: Is it not more difficult to displace a certified union than to displace a union that has a collective agreement?

MR. METZLER: No.

MR. MYERS: Are copies of the agreement filed with you?

MR. METZLER: They are filed with the Ontario Labour Relations.

MR. MYERS: Why could not Labour Relations issue a certificate saying they have bargaining rights which has all the privileges of certification?

MR. REAUME: It is extra work.

MR. YAREMKO: If we were to do that it would open the door and would allow a group of employees to get together with management and enter into a voluntary agreement and automatically

be certified, if that suggestion were to be taken up.

MR. METZLER: I would not want to make any direct comments on that, but I would say every collective agreement has to stand on its own two feet. There can be situations where a voluntary recognition involving collective agreement after certification. If a situation develops where a union is overborne by the employers, or the agreement may or may not stand up to an onslaught from another organization.

MR. YAREMKO: But it still has to be attacked. To be on the offensive, it is a little more difficult. You have to prove.

MR. METZLER: That union that wants to supplant any organization that has obtained voluntary recognition would clearly have to establish if that was the basis upon which it was established. After all, you have to remember if there is a collective agreement in existence that has been voluntarily negotiated, there is a protection, a prima facie protection under any Labour Relations Act that an agreement will run for ten months before you can attack it. If there is an attack launched any earlier than ten

months, then the union that attacks must establish to the satisfaction of the Board that the agreement is not a valid collective agreement.

MR. REAUME: Then is there anything wrong with getting a big stamp made, and automatically stamp on the back of the agreement that this union is certified?

MR. PERKINS: I would like to draw to the attention of the Committee to one thing that I have run into in this problem; that is the determination of the bargaining unit. A voluntary agreement made between an uncertified union and a company determine their own bargaining unit, and quite frequently include employees who may not be eligible on a bargaining unit in the eyes of the Labour Relations Board. I have had those cases.

MR. MACAULAY: Did they become an accepted group? The only reason there is nothing in the Act set out is because if you cannot come to an agreement, then you cannot agree as to the group. Here is the point, Mr. Metzler, that occurs to me. After the agreement is over, there is no recognized certified group with whom to negotiate further, is there?

MR. METZLER: Yes, there is. The

bargaining right, the right to call for a renewal and continue to bargain until you are displaced in accordance with the privileges of the Labour Relations Act exists in favour of the union whose agreement has run its full course.

MR. MACAULAY: So it is one thing to consider the rights relative to certification while there is an agreement, but you are at no disadvantage when the agreement is over?

MR. METZLER: Bargaining rights do not drop as the result of the conclusion of the agreement.

MR. MacDONALD: Are all collective agreements registered with the Labour Relations Board even if not certified?

MR. METZLER: There is a provision in the Labour Relations Act which requires a filing of all collective agreements. Section 54: "Each party to a collective agreement shall, forthwith, after it is made file one signed copy thereof with the Board."

MR. MACAULAY: Does that include parties not governed by the Act?

MR. METZLER: A collective agreement.

MR. MacDONALD: You are reasonably sure that all collective agreements in the province are registered?

MR. METZLER: I would not want to make that as a sweeping statement. I say there is an obligation to file; whether it is carried out in every instance I am not prepared to say.

THE CHAIRMAN: The Act provides that you have to file.

MR. METZLER: Mr. Chairman, I think we might bring this discussion to a more decisive point if we were to ask Mr. Thomas whether in point of actual fact any instance has occurred in respect of his group where bargaining rights have been lost and the agreement has been obtained on a voluntary basis. Has that occurred, Mr. Thomas?

MR. THOMAS: Yes, it has in a few instances. We felt that the fact of the argument used against us, that the group was not certified, contributed to that achievement.

MR. METZLER: Tell me, had the agreement run the full ten months? Was the application for certification timely?

MR. THOMAS: Yes, it was, sir.

MR. METZLER: Have you ever lost an agreement on the basis that it was not a valid collective agreement?

MR. THOMAS: No, we have never run into that situation.

THE CHAIRMAN: Shall we proceed to Section 6-2.

MR. MACAULAY: On page 3 you say, "Newly formed craft unions are refused certification as such for units of class employees, even though the members of such unions may be fully qualified craftsmen." To a layman, such as myself, I do not understand the implication. Are you suggesting, as the balance of the material seems to indicate, an old recognized craft group, you will not be accepted as a craft union.

MR. THOMAS: That is right. I believe Mr. Metzler can explain it. There was one instance when we had an application before the Labour Board and the hearing before ours involved a group of painters, I believe. It was a newly formed group, and the group was very politely informed by the chairman that their application would have to be dismissed because under the section of the Labour Act referring to them, they did not have any established history. So, in other words, the only way you can get recognition by certification is to be an established group in the craft field. Of course, you can always get it on a voluntary basis if the way is not barred by certification.

MR. MACAULAY: If a new craft came into existence you could not be certified because you have no past history.

MR. THOMAS: I believe I am correct. Mr. Metzler could bear me out.

MR. METZLER: Mr. Chairman, I wish Mr. Finkelman were here because he could be far more explicit on this point than I could. However, I will make an observation: The general trend of industrial relations is toward bargaining on an industrial unit basis and that is the trend in collective bargaining on the North American continent. However, we have to recognize that over the long history of collective bargaining on this continent there has been established a definite bargaining rights on the part of certain crafts. They have a historical background; carpenters, bricklayers, electricians and groups of that character who are distinguished by their particular abilities and who, in the main, will not admit to membership persons who do not possess the necessary craft qualification. Their rights to continue to bargain have been generally recognized and have been maintained under the Labour Relations Act. Now, I would say that in respect to new craft it would be difficult. It would

be difficult for them under the legislation as it is written to obtain craft status and, therefore certification. There could be and there may be new distinct crafts come up that have distinct skill possessed by their particular membership.

MR. MacDONALD: I can see the general validity of that. How do you reconcile that with the basic principle as stated by Mr. Finkelman that they do not examine the jurisdiction.

If a group of workers come and say, we want to be a collective bargaining unit, he said they do not examine them, as to whether they are in the right unit. If they have to be certified and comply with the regulations they are certified.

MR. METZLER: I am not going to argue it. I will say in this situation that occurs unions have organized locals in certain types of work given over to, shall we say, an industrial parent. A good example would be the lumber and sawmill workers. Their locals are directly affiliated with the United Brotherhood of Carpenters and Joiners of America. Another example would be the International Brotherhood of Electrical Workers. You will find they do have contracts effecting all workers including many classifications other than the straight

classification of line men or electricians in public utilities. Recently we had a dispute involving the Scarborough Public Utilities and its Hydro workers and that organization encompassed the whole group in addition to the electricians. They have made provision for that in their organization and that has been done over the years, but they still maintain their craft local I.B.E.W. in the City of Toronto as a craft local. I think if you were to apply for membership in that organization you would have to be able to demonstrate to the officers of that union that you were a journeyman electrician or an apprentice.

MR. MACAULAY: Assuming you can establish what people are craftsmen and have been craftsmen for 30 years past. They get together in a new group and decide they want to be a new unit. Say there are a hundred of them; can they be certified?

MR. METZLER: You are talking about a craft application?

MR. MACAULAY: Yes, it has a history. Is the certification on behalf of the person or on behalf of the union?

MR. METZLER: I can only refer you to the wording of the section. I think you would have to look at that to see just exactly

how the thing has been limited by the legislation.
After all, that is the specific point: I will
read it if you wish. Section 6-2:

"Any group of employees who exercise technical skills or who are members of a craft by reason of which they are distinguishable from the other employees and commonly bargain separately and apart from other employees through a trade union that according to established trade union practice pertains to such skills or craft shall be deemed by the Board to be a unit appropriate for collective bargaining if the application is made by a trade union pertaining to such skills or craft, and the Board may include in such unit persons who according to established trade union practice are commonly associated in their work and bargaining with such group."

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MR. YAREMKO: The key words are -- through a trade union that according to established trade union practice pertains to such skills or crafts -- and it is those words, I believe, that the Board used in applying the principle whether they will certify or will not certify.

MR. METZLER: I am not disagreeing. It may affect the situation that Mr. Thomas has in mind. If Mr. Finkelman does come up here today, it may be that you would want to pursue the question further with him. I am sure he will be able to give you further information. I am not disagreeing when you say that situation could arise. There is an attempt to call out a group and say this is a craft group, but there is no history, no practice, there is no organization that might establish trade union practice that has bargained on behalf of that group.

MR. WREN: How does that reconcile Section 6 with Section 3? Section 3 says: "Every person is free to join a trade union of his own choice --."

MR. METZLER: There is no conflict there, Mr. Wren. There is, basically, no difficulty if you want to broaden the basis of organization and take craftsmen into an

industrial group. It is done every day of the week. For instance, if you want to refer to the U.A.W. and the Ford Motor Company in Windsor, Ontario, with their large group of employees, possibly 10,000, you will find that people, including the crafts, are bargained for with the people who are extracting craft skill and bargained for on an industrial basis.

MR. REAUME: In the instance of one of the plants, U.A.W. it does not bargain for the certified trades in the plants. For instance, the Chrysler plant do not bargain for the electrical group at the power house.

MR. METZLER: Who bargain for them?

MR. REAUME: They do themselves, through a local of their own.

MR. METZLER: Through a separate local.

MR. REAUME: Yes.

MR. METZLER: Of the U.A.W.?

MR. REAUME: No.

MR. METZLER: Through what union would it be operating; would it be the Engineers' Union?

MR. REAUME: I think it is A.F. of L.

MR. METZLER: They could be operating under the Engineers' Union. If you will notice

Section 6-2, there has been a rider attached:

"-- and the Board may include in such unit persons who according to established trade union practice are commonly associated in their work and bargaining of such group ..." For instance, take the power house employees. They comprise not only stationary engineers but other people whose work is solely within the power house.

MR. WREN: Tell me what is going to happen since automation has opened a whole new field of craftsmen. How are these people ever going to get themselves established into an organization which will have their particular interests at heart if they have to show a history?

MR. METZLER: Of course, Mr. Wren, that is carrying us a bit afield. Let me point this out to you: There are two ways of looking at this situation in connection with automation. You may buy or rent highly specialized machines to do particular jobs. Now, the actual servicing and maintenance and repair of those machines could surely be included in the contract of the industry who produced the machine so that people who will keep them in order and keep them going will be people in

the employ of the person who is manufacturing them and selling them.

MR. REAUME: Not necessarily so. I know on the railways they are setting up a particularized kind of communication equipment and the people on the railroad who are in electrical trade unions and have skilled knowledge of their own particular electrical trade have no knowledge of the electronics involved in the servicing of this particular equipment. I realize they are in a Federal jurisdiction, but if such a similar situation existed in Ontario, how could such people establish themselves as a craft?

MR. METZLER: They may or may not not find it necessary to establish themselves as a craft. They can obtain bargaining rights as certified on an industrial basis. They may not desire to do so. Is it not because there is a trend, a preference to have industrial relationship and to have an encompassed group instead of having a scattered number of people who are dealing separately. You are dealing with one unit and you have some sort of basis that continues.

MR. REAUME: No, I do not think so. If Section 3 of the Act means anything at

all, and I think it does, you have a right to join any union of your choice, but you are prevented from joining it because of the history.

MR. WREN: Here is the difficulty I am thinking of. Perhaps you can clear my thinking. The situation as I see it is that one of the most important things we can aim for in trying to secure industrial peace, is having something within the framework of the trade union organization that can guarantee not only to the unions but to the employers as well, as a whole, that certain skills are going to be recognized. If we are going to continue that broad organization on a strictly industrial basis, how can an industrial or union organization, not possessed of skills in the field of electronics going to be able to demand of that person certain qualifications and how can they assure that the employer, through the rate of pay he is paying is obtaining the skilled services which the collective agreement calls for? Unless we have craft unions, to some extent, established in this highly skilled and almost professional field, how are we going to obtain protection for the employer and the union if we do not have a union in which a skill can be determined.

MR. METZLER: This is not a complete answer to the question as a whole, but I think you have emerged into the field of collective bargaining, a very important subject. Namely, the question of training, apprenticeship. That is the type of thing very large industries have practised. I will go back to the Ford Motor Company as an example. As I understand it, although I have never had the privilege to view the operation, the Ford Motor Company has a well established school to train young men into the skill and crafts they require. It is a very important part of their operation. I know the Canadian General Electric are in the same position and they are a very large operation in Peterborough, Ontario. They have a director of training associated with their operation, and they do set up courses for those people to be trained. I do not recognize the problem at all.

THE CHAIRMAN: We will adjourn now until 2 o'clock.

---The Hearing adjourned at 1 o'clock
to resume at 2 p.m.

---On resuming at 2.00 p.m.

THE CHAIRMAN: Gentlemen, we were dealing with Section 11, the obligation to bargain.

MR. JACKSON: May I ask a question there. I wonder if Mr. Thomas would answer this for me: Would you have any objection if that were, in part, to read: "In cases where an employer or a union does not cooperate within the period specified . . ." -- "an employer or a union"?

MR. THOMAS: Well, I think if you will look at the Labour Relations Act, I believe the union end of it is covered.

MR. JACKSON: Not in this section, Section 11.

MR. THOMAS: Yes; it is more an attempt to balance the situation.

MR. JACKSON: If there was that change to Section 11 that would probably balance it out, then?

MR. THOMAS: Yes, that is right. I was under the impression that it was more of an attempt at balancing the situation; but I may be wrong.

MR. JACKSON: You would have no objection if that were . . .

MR. THOMAS: No, I don't think we would have any objection. We recognize that the obligation to follow through with procedure applies

equally to both sides.

MR. METZLER: In reference to Section 11 -- the obligation to bargain -- I think we should have a look at Section 41 in the Act. Section 41(1) reads:

"If a trade union does not make
"a collective agreement with the
"employer within one year after
"its certification any of the
"employees in the bargaining unit
"determined in the certificate
"may apply to the Board for a
"declaration that the trade union
"no longer represents the employees
"in the bargaining unit."

That is one part of it; but I think if you look at 43(1) it shows:

"If a trade union fails to give
"the employer notice under Section
"10 within sixty days following
"certification or if it fails to
"give notice under Section 38 and
"no such notice is given by the
"employer, the Board may, upon the
"application of the employer or of
"any of the employees in the bar-
"gaining unit, and with or without
"a representation vote, declare

"that the trade union no longer
"represents the employees in the
"bargaining unit."

So that there is a pretty serious obligation cast
upon the trade union.

MR. THOMAS: Yes.

THE CHAIRMAN: It is not cast upon the
employer.

MR. METZLER: Well, if you read Section
11:

"The parties shall meet within
"fifteen days from the giving of
"the notice or within such further
"period as the parties agree upon
"and they shall bargain in good
"faith and make every reasonable
"effort to make a collective
"agreement."

And if you look at Section 13(1) it says:

"Where 35 days or more have
"elapsed from the giving of the
"notice and it appears that a
"collective agreement will not be
"made within a reasonable time
"either party may file with the
"Board a request that concilia-
"tion services be made available
"to the parties, whereupon the

"Board shall grant the request,
"but before doing so it may post-
"pone consideration of the request
"from time to time to a specified
"date and direct parties to con-
"tinue to bargain in the meantime."

What I am getting at is that, unquestionably, there is an obligation to meet and bargain inherent in the Act, and I would say that if a trade union found that it was stymied in its efforts to get down to meeting with the employer then it could turn to the formal procedure of the Board and put the case before the Board and point out the efforts it had made to meet with the employer and leave the matter up to the Board to determine whether or not conciliation services will be granted immediately, or the Board might say to the employer: "You have had your notice. Get down to it and bargain with the trade union and we will expect you to give us some information in respect of the bargaining in two weeks, or three weeks."

THE CHAIRMAN: That is provided in Section 13.

MR. METZLER: Yes.

MR. JACKSON: Does Section 13 deal with bargaining?

MR. METZLER: It deals with . . .

MR. JACKSON: We have got fifteen days

in Section 11, thirty-five in Section 13 and sixty days in Section 43. Are they all dealing with bargaining?

MR. METZLER: They impose certain strictures on either the employer or the trade union to do certain things within the limits as specified. They are, yes, in respect of bargaining.

MR. JACKSON: Section 13 is in respect of bargaining?

MR. METZLER: If you look at the sub-heading of the Act on page 4, just prior to Section 10 it says:

"Negotiation of collective
"agreement."

MR. THOMAS: Perhaps I could offer a slight bit more of explanation on the thinking behind our suggestion. Conciliation, I believe, is usually made use of when, you might say, real difficulties or differences of opinion have arisen, and you will see that our suggestion refers specifically to Section 11. We are actually referring to that period of fifteen days after notice has been given -- in other words, right at the very start of the process -- because we have had the experience -- this is simply our suggestion to counteract what you might call a certain amount of procrastination, let us say, on the part of human beings -- in this case the employer. They haven't refused bargaining.

They are going to do it tomorrow. But sometimes it can get extremely annoying and embarrassing. Actually, nothing has been done, but they are always going to do it. We felt that before the stage of conciliation on the more formal procedures that, perhaps, right at the very start, there could be a clear provision that, automatically, or upon application, if fifteen days passed, immediately an order could be issued.

That was our thinking.

MR. METZLER: Well, on the suggestion made by Mr. Thomas it could be said that if this suggestion were adopted and the legislation amended accordingly you might be faced with a multiplicity of applications in respect of conciliation or negotiation.

At the outset I would say that if the employer is determined in his attitude not to sit down with the trade union even a direction to do so might not cause him to go ahead, because if you look at Section 31 there is nothing to prevent the trade union, within a reasonable time, having failed to get any response from the employer -- there is nothing to prevent the trade union from making application for conciliation services, and if the Board is satisfied in its own mind that the trade union has made every effort to sit down with the employer without avail they may call the employer

and say: "Look, you have an obligation under this legislation to sit down and bargain with the union. Sit down and bargain."

THE CHAIRMAN: What happens if they don't live up to their obligation as set out by Section 11?

MR. METZLER: I would imagine if there was no attempt then it would go to conciliation and a conciliation officer would be assigned; and, ultimately, if he could not get the parties together -- I don't know of any instances; I wish Mr. Fine were here and we might ask him some questions.

THE CHAIRMAN: If the situation did occur where notice was given by Section 10, the fifteen days had elapsed and the employer showed no sign of desiring to commence negotiations, would not the union be entitled then to appear before the Board or request the Board, immediately on the sixteenth day . . . ?

MR. METZLER: I don't imagine they could make an application; but if you read subsection (2) of Section 13 it says:

"Upon the joint request of the
"parties or upon the request of
"either of them, the Board, if it
"is satisfied that no progress in
"bargaining is being made, may
"grant the request for conciliation
"services notwithstanding that the

"thirty-five-day period mentioned

"in subsection (1) has now elapsed."

THE CHAIRMAN: Doesn't that take care of it, Mr. Thomas?

MR. THOMAS: Yes, I see that.

THE CHAIRMAN: Shall we proceed to page 4, section 12(1)(d) -- composition of bargaining committees?

MR. THOMAS: This proposal, of course, revolves around the old argument which was discussed at great length this morning. I don't want to invite a reopening of that argument on the Canadian citizen aspect. I think that, perhaps, the same views would just be expressed over again.

Perhaps the interesting feature is that we have not been able to find anything in the Act referring to the composition of companies' bargaining representatives, and we feel that, perhaps, a suggestion along the lines that we have made would be desirable.

THE CHAIRMAN: Section 13 and following -- conciliation services?

MR. METZLER: The only thing I can think of in respect of this particular part of the brief is to ask if Mr. Thomas has any specific recommendation that he or his organization would care to make regarding either the speeding up, or the improvement, of the conciliation procedure?

MR. THOMAS: No, we can't, Mr. Metzler. I might explain partially, because in the light of some of the original hearings before this Committee we were left in doubt as to whether the problem was as serious as it was portrayed in some quarters. So, as you see, we have merely worded this suggestion so that if a problem exists some attention should be given to it.

I was particularly interested in Mr. Fine's testimony at the earlier hearings, which, to some extent, was a revelation to me. I thought that the situation was somewhat different, but he certainly seemed to have the facts and figures to substantiate his point. So that sort of left us wondering whether there was any point to be made there.

THE CHAIRMAN: Section 35 -- binding effect of collective agreement?

MR. MacDONALD: I think everybody is in favour of this one. It could be important in the case of a company which might not be able to sell if the agreement was continued.

THE CHAIRMAN: Have you considered that aspect of it, Mr. Thomas?

MR. THOMAS: No, we haven't. We have merely considered it from the aspect which was always considered in the past, that bargaining rights and other rights flowing from bargaining

rights, such as seniority and so forth, have been washed out by a change of ownership.

THE CHAIRMAN: Supposing a man wants, for the reason of ill health, or some other valid reason, to get out of a business he is in and he has an opportunity to sell it . . .

MR. THOMAS: Yes.

THE CHAIRMAN: . . . but the purchaser will not enter into a transaction with him if he has to be bound by the collective agreement in force at the time -- and I am not dealing with the situation which was mentioned earlier where there is a fictitious change of ownership, but where there is actually a bona fide sale from one entity to a distinctly different entity.

MR. THOMAS: Well, of course, that would be most unfortunate, but naturally we are forced to look at it that assuming there is a sizeable staff -- a group of employees -- we feel that the established rights of those employees should be given consideration as well as the rights of the owner.

That is more or less our thinking.

THE CHAIRMAN: Suppose the man who owns the business dies and he has made a will, and under the terms of the will he has appointed a trustee who is to dispose of his business . . .

MR. THOMAS: Yes.

THE CHAIRMAN: . . . and there were certain strictures imposed upon him under the Wills Act, he would be prevented from carrying them out if he couldn't sell the business unless the purchaser would take over the collective bargaining agreement?

MR. THOMAS: Well, that certainly is an angle that we haven't thought of; but I would not like to think it a fact that all employers in general were so averse to it that it would be a deciding factor. Of course, you were speaking hypothetically, and actually I know of no case where it has been a deciding factor one way or the other.

THE CHAIRMAN: It is a case that could arise?

MR. THOMAS: Yes, it certainly is.

MR. JACKSON: Your intent here, then, is to get away from the situation where there is a fictitious change of ownership and transfer of stocks?

MR. THOMAS: Yes. The intent, basically, was to provide continuation and protect the accumulated rights and privileges of a group of employees through a union.

MR. JACKSON: Under what circumstances are you specifically after the so-called fictitious change in ownership?

MR. THOMAS: We think that if the recommendation was broadened out it could cover that type of situation; but, actually, we are merely wording it to meet any change of ownership.

MR. MacDONALD: In other words, you had in mind a genuine change of ownership as well as a fictitious change of ownership?

MR. THOMAS: Yes, that is right.

MR. METZLER: It seems to me that what is intended -- although it may not be expressed -- is that there would be a change in ownership or the sale or disposition of the business as a going concern. It would have to be that. In other words, if they just stopped and said: "We are going out of business," or there was a sale of assets as part of the bankruptcy procedure, there would be no consideration there.

MR. THOMAS: That was the implication -- that the enterprise did not cease to operate.

THE CHAIRMAN: Section 57 and following -- enforcement of unfair practices clauses?

MR. JACKSON: Do you see any objection to that?

MR. METZLER: Well, I would point out to this Committee that in most instances the actual enforcement in respect of unfair practices does lie with the Labour Relations Board except in one instance only and that is in a case where an employee,

or employees, have been discriminated against, or discharged, or otherwise dealt with contrary to the provisions of the Act, and there there is a quick procedure whereby complaint is made to the Minister and he then proceeds to appoint a conciliation officer. We try to do that as quickly as we can, and we use all possibly dispatch to try to get these cases handled, because we don't want the aggravation of the situation to be visited on the employer, or the trade unions, or the employees any longer than is necessary. So we send a conciliation officer in and he examines into the circumstances from the point of view of the employee, or the union, and, again, the employer. The duty is cast upon him to endeavour to resolve the difficulty. If he cannot then what he has to do is to report to the Minister, and if he feels that circumstances are such that warrant formal investigation by a Commissioner then he will so recommend to the Minister and, of course, the Commissioner will be appointed to call the parties into a formal hearing where testimony will be given; and then a report is made by this Commissioner to the Minister, indicating what his recommendations are on each point.

That is under the Labour Relations Act. I may say that I cannot associate the case of discharge arising out of union activity on the part of the employee, and, therefore . . .

THE CHAIRMAN: What you are suggesting, Mr. Thomas, is the transfer of the responsibility from the Minister to the Labour Relations Board for the reason that you think it would result in speedier solutions?

MR. THOMAS: That is right.

MR. METZLER: I wonder if that is all it is? There may be this involved in the situation, that -- I am not expressing the view at all -- but, unquestionably, if there has been any allegation of intimidation of employees, either in the form of discharge or any other way, that may well prove to be part of the case the union will ultimately bring before the Labour Relations Board in respect of an application.

I don't think that by transferring it from the Minister to the Board you would in any way shorten the procedure, or speed it up. I think, in actual point of fact, it might have the effect of delaying it.

MR. JACKSON: Are there any specific cases where this has happened, Mr. Thomas?

MR. THOMAS: No. You might say that in the case of this suggestion we were speaking hypothetically. We haven't had a case of it in our own industry, where we have made such a complaint; but in approval of the Act we felt that the present procedure looked much more involved than the

suggestion we have made. But we may be wrong on that score, and Mr. Metzler may be perfectly correct.

MR. METZLER: I don't want to labour the point, but I might say a word in connection with the history of this.

This procedure was first developed under Wartime Labour Relations Board Regulations. P.C. 4020 was enacted, in which there was the provision for the appointment of a commissioner -- or, I believe, it was a commission -- to investigate into cases of alleged discrimination in employment. The original practice was to appoint the commission immediately, but it was found out in point of actual practice that it was preferable to have one man go in on an unofficial basis and make an investigation into the circumstances, because oftentimes when we had a formal commission set up and had gone to the trouble of calling the parties together there might be no need for extending it to the extent that it went. When we brought the province under the legislation in P.C. 4020 we decided to incorporate and develop the practice of appointing a conciliation officer and, on his recommendation, subsequently appointing a commission.

THE CHAIRMAN: Section 66 -- administration?

The point here, I gather, Mr. Thomas, is that in view of the fact that there has been an

amalgamation of the Trades and Labour Congress of Canada and the Canadian Congress of Labour, there are now two representatives of one organization on the Board?

MR. THOMAS: We feel that is, in effect, what has happened.

MR. MacDONALD: You feel it really would be fair to have the representative of 7000 as opposed to 510,000?

MR. THOMAS: We don't claim the privilege at this stage in our development of an exclusive representative. We merely state that we feel there is a start and that there is a section of unionized labour in this province that does not have a specific representative.

If you read that very carefully you will notice that we have been careful to make it clear that we are not implying any unfairness, or anything like that, on the part of any of the Board members. It simply is that that impression has existed, and we feel that there is some case for wider representation. I believe that in some of the other provinces -- at least, in one other -- the representation on the Board is on a somewhat wider scale.

But, no, we are not claiming a representative.

THE CHAIRMAN: I think you made that clear in your presentation. You say:

"Therefore, if the present
"arrangement of the Board is to
"be continued, we believe an
"additional member, or members,
"should be added representing
"those purely Canadian, bona fide
"union groups not associated with
"the Canadian Labour Congress. . ."

MR. THOMAS: That is right.

MR. MacDONALD: My point is this: What
unions are there other than your locals?

MR. THOMAS: There are a number. I
can think of one large independent one -- if you want
to use that expression -- of about ten thousand
members in the Province of Ontario.

MR. MacDONALD: Which?

MR. THOMAS: The Bell Telephone union --
federally certified, incidentally. If it is
federally certified, as I believe it is -- it could
be the Province of Ontario, but I thought it was
federally; but there are others . . .

MR. MacDONALD: I meant provincially.

MR. THOMAS: I will go so far as to say
that there are a number of trade unions, but if you
ask me specifically how many we would have to sur-
vey the situation, and I have never been able to
come across any authoritative survey or statistics
published by the provincial Labour Department.

They don't seem to break things down on that basis, and they don't have the opportunity of finding out the actual totals.

But we feel that there are several groups not affiliated with the major Congress that, perhaps, should receive some consideration. That is our contention.

THE CHAIRMAN: It is a very good point, Mr. Thomas.

MR. THOMAS: Our president has just mentioned to me -- I don't want to drag in any other group, and perhaps I shouldn't have mentioned them -- but he seems to be under the impression that the Bell Telephone Company is under provincial jurisdiction. That was the first one that came to my mind.

MR. MacDONALD: How about the unions which, in effect, have been expelled from the organized Congress? I am curious, as a matter of information, as to how significant that group is, because as I see it, the danger is that if you have different groups coming in you will finish up with a pretty splint~~er~~ed affair.

MR. THOMAS: We are merely asking that a board be established representing the international unions and ~~representing~~ what you might call the purely bona fide Canadian unions.

MR. METZLER: But some of them on the

Board are now representing Canadian unions out-
with the Congress.

MR. THOMAS: Yes, that is quite true;
but the point is that the overall character of the
Congress is more international.

Once more we are into a contentious field.

THE CHAIRMAN: Thank you, Mr. Thomas.
Is there any other question that anyone would like
to ask?

MR. JACKSON: May I ask this question of
Mr. Thomas? I should ask this, possibly, of
counsel because it is a question I would want to ask
each union group or labour group as they appear in
front of us. I am seeking information. Have you
any objection to trade unions being made corporate
bodies -- to a trade union becoming a corporation?

MR. THOMAS: It certainly hasn't been
considered in the past . . .

MR. JACKSON: That is not the question --
in the past.

MR. THOMAS: Unions have functioned for
quite a long time on a voluntary basis.

MR. JACKSON: I am speaking of not volun-
tary.

MR. THOMAS: Certainly I think that is
the tradition of the labour movement, and I think
we would prefer it to remain that way.

MR. JACKSON: You would rather not become

corporate?

MR. THOMAS: That is right.

MR. JACKSON: Could you give me any reason why, briefly?

MR. THOMAS: Well, I will answer your question by asking a question. What would be the advantage?

MR. JACKSON: Well, I assume I am going to hear advantages. I would like to hear some disadvantages from a group representing labour.

You see, I am not taking this up particularly with the National Council of Canadian Labour . . .

MR. THOMAS: That is understood.

MR. JACKSON: . . . but I would like to know what are the objections you would have?

MR. THOMAS: I will be quite frank. We have not considered the matter. We didn't consider it in connection with this brief.

Our thinking has been that we are well satisfied with the present setup, and we haven't given it any great thought. That is my honest answer at the moment.

THE CHAIRMAN: Thank you, Mr. Thomas. On behalf of the Committee I would like to thank the National Council of Canadian Labour and Mr. Thomas in particular for the very clear presentation that he has made. I am sure all the members of

the Committee are very grateful to you, Mr. Thomas.

MR. THOMAS: Thank you, sir.

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THE SECRETARY: Mr. Chairman and members of the Committee, I would like to present to you The Christian Labour Association of Canada, head office at Hamilton, Ontario, represented by Mr. Matthews, president; Mr. Boersma, vice-president; Mr. F. Fuykschot, national secretary; Mr. vander Zande, national Board member; and Mr. H. E. Asseltine, association secretary.

THE CHAIRMAN: Who will present the brief?

MR. ASSELTINE: I will present it.

THE CHAIRMAN: Could you tell the Committee how many people there are whom you represent in your organization, the Christian Labour Association of Canada?

MR. ASSELTINE: Are you referring to the total in the organization, or in the bargaining units?

THE CHAIRMAN: To the total organization?

MR. ASSELTINE: Our organization has a kind of double-barrelled approach to the problem. We have certain workers' groups that are in bargaining units and we have others which are with

collective agreements.

THE CHAIRMAN: Can we have both of them, please?

MR. ASSELTINE: Would you like the figures for Canada, or Ontario?

THE CHAIRMAN: For Ontario.

MR. ASSELTINE: In Ontario we have approximately one thousand to twelve hundred members.

THE CHAIRMAN: And in Canada?

MR. ASSELTINE: And in Canada, approximately two thousand.

THE CHAIRMAN: I am just asking you that now, because it will come up later from some of the members and this will probably shorten it.

Would you be good enough to proceed with your presentation?

MR. ASSELTINE: Our organization is a comparatively new one on the Canadian scene, and our presentation is, perhaps, more philosophical than just concerned with the practical aspect. For that reason I would like to read first of all, if I may, from the Blue Book which is the basis on which we operate and in which we suggest changes in the labour legislation.

(Mr. Asseltine read from page 2 to 7, inclusive of the "Blue Book" referred to.)

MR. ASSELTINE: Then we continue with our specific proposals.

THE CHAIRMAN: Yes.

MR. ASSELTINE: By way of an introductory remark, again I would like to say that we are not, in this brief, making all of the possible suggestions, but we are simply making a few suggestions that we feel follow the principles you have already heard.

THE CHAIRMAN: Yes.

(Mr. Asseltine proceeded to read his brief.)

THE CHAIRMAN: Thank you very much, Mr. Asseltine.

Now, gentlemen, are there any questions arising out of the presentation that you would care to direct to the representatives of The Christian Labour Association of Canada and its affiliates?

MR. METZLER: I think there is one general question that I might be allowed to ask Mr. Asseltine. I wonder if he would care to state to the Committee the requirements for membership of his organization?

THE CHAIRMAN: Well, I don't know -- are we interested in that?

Would you care to answer that question, Mr. Asseltine?

MR. ASSELTINE: We would be quite happy to answer that question, because people are very often confused by the fact that we are called

the Christian Labour Association of Canada. It seems they feel that it is sectarian.

THE CHAIRMAN: Yes.

MR. ASSELTINE: In our western culture I believe it is generally accepted that the word "Christian" stands for certain ethical and moral principles which are common not only to the Christian but to the Hebrew, and, in fact, to the world in general. We are using the word "Christian" simply to stand for these universal principles of justice and social responsibility and so on which, I believe, have stood the test of time from the time of the Old Testament to the present.

Now, with that introduction, all that is required is that people are asked -- first of all, all employees who have reached the legal age for employment may become members of the Christian Labour Association of Canada by subscribing to these Christian principles in labour relations.

That is a kind of brief summary of the requirements. Does that answer your question?

MR. METZLER: It does, in part, but what I had in mind was that in the course of reading the first pamphlet Mr. Asseltine made mention of, or discussed, the provisions of the fair employment practices Act, and membership in a particular organization, or trade union, subject to compulsory union membership, might be in violation of

that legislation. My question is: What would he do?

He states that he has established bargaining rights -- or, at least, his organization has established bargaining rights -- in respect of certain plants and employees in this province. Supposing he runs into a situation where a man is an atheist and does not subscribe to any particular set of principles, is he eligible for membership, and, therefore, representation by this organization in respect of labour relations?

That is the point I am trying to get at.

MR. ASSELTINE: Whether he is a Christian, a Moslem or a Jew doesn't enter into the picture, because we are not concerned with theological dogma. We are simply concerned with social principles, and even an atheist, I think, would agree that there are certain principles such as "Honesty is the best policy" which he could agree with. That is the kind of general basis of our principles.

MR. METZLER: But he would not be barred from membership in your organization, and, therefore, from being represented by you in bargaining with the employer?

MR. ASSELTINE: That is right.

MR. WREN: Do I understand one of your principles to be that you suggest a multiplicity of union organization in industry? For example,

you say you do have some collective bargaining units in your organization. Do you think it is sound union or trade union business, from a government point of view, to have unions come in and seek to organize, contrary or not to the Labour Relations Act, in a field where you have already negotiated agreements?

MR. ASSELTINE: In reply to that question we must make it clear that we are, in a sense, promoting a new concept of trade unionism that is new to North America. It is quite common practice, I believe, in many of the European countries for two, three, or more, trade unions to exist and to work together in any given plant. My colleague Mr. Fuykschot, has worked with the trade union movement in Holland for twenty-seven years, and there it is quite customary.

You see, what I am advocating is a situation which is the equivalent of our political situation. In the Houses of Parliament in this country we have two or three or more parties, and the different parties are all represented. None of them are excluded simply because one party is the majority. So, on that basis, it seems that this is a sound proposal -- that whichever trade union has the majority would have the bargaining rights, but that doesn't rule out the existence of certain other parties who would, at least, be

allowed to exist and, possibly, to speak in that situation.

Does that answer your question?

MR. WREN: No; because I don't see where another associated union would have any bargaining rights.

For example, in Ontario the people decide the government on a franchise . . .

THE CHAIRMAN: Wisely!

MR. WREN: . . . but once that decision is made the other parties can make their contribution, too, but the actual government of the province -- the actual administrative decisions -- are the responsibility of the government. So I don't quite follow what purpose there would be in having four or five different organizations in one industry where an agreement has already been established.

MR. ROWNTREE: There wouldn't be the compulsory payment, or check-off.

MR. WREN: The Government meets on occasion and levies taxes whether we agree or disagree with those taxes.

You seem to agree in your brief that it is a democratic process. If the Government has met and decided to impose certain levies, that is quite all right, but why wouldn't it follow that workers in industry having met and decided by a

majority on a certain course of action -- why isn't that just as democratic?

MR. ASSELTINE: I think I have said nothing to date which is contrary to the statement you have just made. In fact, that, I believe, is our basic contention, that the electorate should chose the party of its choice and that that party should have the right to make the rules which are universally binding and to levy the taxes which you can call the dues in trade union organization; but so far as this particular point is concerned it is that . . .

MR. WREN: But your suggestion is that, once a decision is made, you shouldn't be required to pay if you don't wish to pay your dues? When Parliament, for example, says we must pay certain taxes we are required, by the rule of the majority under democratic principles, to pay those taxes. Why, similarly, would you not be required if that decision had been made by other workers -- to pay your dues?

MR. ASSELTINE: If I have stated, or implied, that I am suggesting that non-members be relieved from their social obligations to pay dues, I would apologize, because that was not the point of my argument at all.

MR. WREN: I don't think you follow me. Democratic principles -- and I think you

will agree that they are democratic -- democratic principles require that all the workers, by a vote, choose a certain organization to represent them. If, after choosing that organization, that organization decides that certain dues must be paid to maintain the organization, or union, why would it not be the responsibility of the person who is active in that field, engaged in that work, to carry out his obligation the same as a citizen must his taxes? Can you tell me the difference?

MR. ASSELTINE: I think we are saying the same thing. We are not by any means implying that, because there are two parties in any bargaining unit and one of them has the majority rights, the other party doesn't have any obligation to them in the way of abiding by the regulations or in paying dues. What we are saying, first of all, is that the other party ought to be allowed to exist the same as, for example, in the Federal Government, where you have almost as many Liberals as you have Conservatives; and yet the Conservatives have the recognized authority and they make the laws and all the rest of it. But the other party is there. It is a recognized entity. It can speak, and in doing so it doesn't lose its identity. It is not forced to become a member of the party in power, and all members may join it, or many of them, aside from whatever the majority is seeking to accomplish.

To me that is a very excellent illustration of what we should have in our trade union world.

MR. MacDONALD: Is the net result of your contention this, that in every labour movement there should be a loyal opposition?

MR. ASSELTINE: I think it would be a very healthy thing.

MR. MacDONALD: On an organized basis?

MR. ASSELTINE: On an organized basis.

MR. METZLER: Is that what is the concept? Is it not the argument that, in respect of the bargaining unit, an organization other than the majority -- which may be organized to a particular union -- would have a voice in dictating the economic demands to the employer in question? Is that what your argument is?

MR. ASSELTINE: I feel that democracy demands more than a single voice in the councils of men.

THE CHAIRMAN: Wouldn't that apply only to the organization itself? It wouldn't affect this Act. Under the Labour Relations Act surely we could not say to labour: "Here, you must not have one organization that will bargain for you, but a separate entity that will be free to oppose you." We have no power to do that here.

MR. ASSELTINE: I agree with you.

It is simply a matter of considering the action necessary to make it possible for us -- whether a situation can grow up where there is a need -- and we suggest that the alternative party be at least not ruled out of existence through an exclusiveness.

THE CHAIRMAN: I see your point.

MR. YAREMKO: If, to take Section 30, it is your wish to delete the word "exclusive" I could follow your argument, if that section established a bargaining unit in perpetuity and gave exclusiveness; but do you not believe there is an enabling provision under the Act for displacement to get rid of that exclusiveness and put another exclusive one in in its position? Anything that can be supplanted, to my mind, is not an exclusive thing; it may be temporarily, but not in perpetuity.

(Page 703 follows)

MR. ASSELTINE: I agree that the Act seems to leave it open for an alternative, but in actual practice I believe it is very difficult if you take, for instance, a given situation of a bargaining unit of one hundred people where if everybody in their shop are members of a certain organization that has a strong central office that tells them what to do. Now, someone would have to go in from outside and it is very rarely that people from out of that sociological unit would stand up and bear the brunt to try to make a change. This does happen occasionally but not occasionally enough to provide a real democratic alternative such as we have in the political realm where at the end of a given term of years the matter goes back to the electorate and they may choose between two or more parties which they wish to have their confidence.

MR. ROWNTREE: You mean you do not want the closed shop for your union -- it is not for the majority -- you want the right to belong to a group that represents the minority; is that it? Not to pay your dues to them but the ones who have got the majority **do** the bargaining for all. Is that right.

MR. ASSELTINE: I would even go so far as to say let the minority group pay the dues to the majority party as we do in government.

MR. ROWNTREE: But to retain your right to belong to such group as you wish?

MR. ASSELTINE: That is right.

MR. WREN: This union group which you belong to personally, do you belong to a group yourself?

MR. ASSELTINE: The Christian Labour Association.

MR. WREN: No, but do you belong to a group that has a collective bargaining agreement?

MR. ASSELTINE: No. I have a sister in the Association.

MR. WREN: I have been at many union meetings and I have not ever been at one where there was complete unanimity. There is always opposition, someone does not like what is going on or what is being done or said and will get up on their feet and say so. I have never heard of a minority opinion being entirely squashed. Mind you, I appreciate the thinking behind your brief but I am wondering how you would apply it.

MR. ASSELTINE: You are touching on something which seems to me to be very essential in this present day and that is the nature of our society has changed very completely in the days of many men here. In the days of our grandfathers we lived in a different world. A man was born in his father's home and went to a one-roomed school

and went to work for an employer where it was a face-to-face relationship. All these things happened to me, but my children were born in a hospital, a corporate institution, which is set up with thousands of doctors and nurses and all the rest of it and I scarcely got to see the child until he came home. He goes to school and there he is lost in a corporate structure of a school and he goes out to work and works for a company with perhaps ten thousand workers. It is no longer sufficient for an individual to stand up in the face of this corporate society in which we live, he must act corporately. When you have in a given union meeting an individual who stands up in opposition, it is ineffective because the nature of our society is corporate and the individual invariably loses out in the face of a corporate group.

I am saying that along with this change in our culture we must make room for more than one corporate group to be represented in the bargaining unit, the same as we have in our halls of parliament.

MR. MacDONALD: Mr. Chairman, this is a principle that I find fairly attractive, but how in heaven's name do you apply it? Do you want the Labour Relations Board to certify an official opposition in each union?

MR. ASSELTINE: No, sir. It seems to me at the present time that I am simply asking that the Committee take into consideration the removal of this closed shop question. I believe that would serve two purposes. First of all, it gets us out of this predicament we are now in in which there is no organized opposition and where freedom of association is handicapped because you can only join the one. It is just like Henry Ford's colour of automobiles. You may have any choice you like as long as it is black, so if you are driving a truck you can join any union you like as long as it is the Teamsters Union. You are limited.

I am suggesting if we were to rule out that particular problem we would make way for a healthy opposition which I think will be ---

MR. MYERS: Mr. MacDonald believes quite differently from me -- we have two different schools of thought. You can do it politically, one Conservative party and one C.C.F. party and they do not believe the same at all, but if a fellow belongs to one union and there is another union in the same shop they will not have a division. Where would their division lie?

MR. ASSELTINE: Their division may lie in certain basic principles. First of all, the Christian Labour Association, as you see from our

conversation this afternoon, does not stand for a union shop and we would have a bargaining unit, and under a blanket agreement it is open for the workers to join or not to join. Now, along with that you have this other aspect that if we were failing to give satisfaction to these members there would be no reason why the opposition should not organize, shall we say, an affiliate of the National Council of Canadian Labour, and they have the two parties represented. At the time of the expiration of a contract, as we have in the political realm, let there be a vote as to which of these parties is to represent them.

MR. WREN: You can still do that under the Labour Relations Act. If you are dissatisfied with the union that holds the agreement -- provided it is timely, in the open season, as Mr. Metzler calls it -- if you can garner enough force, enough signatures, you can go to the Board and make an application for certification and displace them.

MR. JACKSON: Can you do that in a closed shop?

MR. WREN: Yes, certainly.

MR. ASSELTINE: It seems to me we have a situation such as existed in the international realm about fifteen years ago. At that time there was a certain party in control of Europe, there was another party standing outside Europe and

they wanted to invade but it was much more difficult to invade from England, across the channel into Europe than it was for Russia simply to go in from the east. I am suggesting that we should have called it a Fifth Column, if you will, in this bargaining unit which is already on the spot and around which the opposition can gather.

MR. MYERS: Opposition to what?

MR. ASSELTINE: Opposition to certain practices that I believe are not generally acceptable.

In the last Readers' Digest there is an interesting article on the strike in Wisconsin where there has been a considerable amount of opposition to the help that has been given by Local 833 of the UAW, and yet that opposition has not been able to crystallize and be effective in bringing peace into that very bad situation. I believe if there had been a place at that time for the two parties to be represented it would not have been necessary for it to have been carried to the extreme where it would be necessary for the union leader to say: "It is a sin that we have to destroy a company in order to win our point."

MR. YAREMKO: You are always talking in terms of two, but your proposition would lead you -- your general proposition would lead you to perhaps three, four, five or six in number; would it not?

MR. ASSELTINE: In theory, yes; in practice I believe as we have in the political realm you would not be troubled by the smaller parties.

THE CHAIRMAN: Of course not.

MR. MacDONALD: Hear, hear.

MR. METZLER: There is a very obvious difficulty in connection with this proposition and I think I should point it out to you. Mr. Asseltine is proceeding on the basis that we are now looking at the grouping of employees, but the employer is entitled to know with whom he is bargaining, and if we determine the relationship in terms of conditions of employment for the entire group -- and I think that basically that is a real need -- he is entitled to know. He does not want to think that he has got to try to satisfy not only a majority group but also splinter groups that may come up when he makes his deal.

MR. WREN: Your theory is fine; if you would tell us how to make it work we would like to try it here.

MR. MacDONALD: Are we not essentially trying to store the individual forms of the unrealistic society of one hundred years ago into a complex society? It is a fine idealistic objective but I am licked in terms of seeing how you are going to restore it.

MR. ASSELTINE: May I suggest our goal at the moment is simply that there be a way opened in which there could be some variety in this realm of labour. As an illustration that besets us at the moment, our organization was called to a group of carpenters working on a school in the City of Oshawa about two months ago. They wanted to organize and we went and assisted them in forming an organization which affiliated with the Christian Labour Association of Canada. An application was made for certification before the Ontario Labour Relations Board. The next thing that happened, the president of the local labour council, representing twenty thousand members in Oshawa, had a special meeting and put the Board of Education on the spot. There was a school being built to be used by a group of people who had exercised their rights under this legislation, they had formed their own organization and they had applied for certification.

This man, the president of that local council, threatened that the school would never be finished as long as these people were allowed to continue to work. The next thing I heard in the papers there was a picket line of two hundred men from this labour council around that school where the nine carpenters were at work.

Now, where is our freedom of association

and where are all the things that this Act is supposed to give us if it is possible for one group to so coerce another group that they are unable to carry out their aims and purposes?

MR. MacDONALD: What happened to your application for certification before the Board?

MR. ASSELTINE: It just disappeared into a pigeon hole as far as we know. There was a hearing but there has been no decision. We have had three or four applications before the Board with no decision.

MR. MacDONALD: Surely the protection of what you think are the rights of these people initially lies in the hands of the Labour Relations Board?

MR. ASSELTINE: Of course, this is another problem which is present under the present setup of things that I feel that the Board could have come to a decision before this -- not only in this case but in some others.

MR. MACAULAY: When did you make that application?

MR. ASSELTINE: The application for the group of carpenters, I believe was heard on the 27th of July, 1957.

MR. MACAULAY: What was the name of the school?

MR. ASSELTINE: Gertrude Colquist on

Wilson Road in Oshawa.

MR. MACAULAY: And as of this date you have no reply?

MR. ASSELTINE: That is right.

MR. YAREMKO: What has happened to the school?

MR. ASSELTINE: I have been out of touch lately because I am in the process of getting back to the University of Chicago and trying to get through the American Consul which is quite an invasion too, but as far as I know nothing has developed.

MR. MACAULAY: Well, did the men join the other union?

MR. ASSELTINE: No.

MR. MACAULAY: Did the strike continue?

MR. ASSELTINE: It was hardly a strike; it was a picketing by the local labour council.

MR. MACAULAY: Are they still working?

MR. ASSELTINE: This company was working on another school at Ajax and they sent their men over there. Perhaps I might call on Mr. Fuykschot and he could give you the latest developments.

MR. FUYKSCHOT: The picket line was withdrawn after ten days without any reason given. We do not know what happened, and the men are still working on the job waiting till the Labour Relations Board gives a decision.

MR. MacDONALD: May I ask this question:

Is it a fact that your membership is predominantly drawn from one Protestant group?

MR. ASSELTINE: Yes, I feel that we have no hesitancy in saying that it is largely drawn from our Dutch immigrants. You see, the Christian Labour Movement goes back to the 1880's in The Netherlands and it now comprises about two hundred thousand members and is very active in Holland. These people come to this country and they feel that they would like this alternative in our labour relations and they have come together, they have formed an organization and they are seeking to carry out the aims and purposes.

MR. MacDONALD: Let me get this clear in my own mind. The name "Christian", without getting into the argument of whether an atheist or a Jew could be in it, have you any other members in your Association?

MR. ASSELTINE: We do have some individuals that I can think of, but there is nothing at all to prevent them; if they were coming to us we would be happy to have them.

MR. MacDONALD: But in fact it is basically a sort of labour wing of this Protestant group?

MR. ASSELTINE: May I say that it, like all groups of people that form organizations, there are certain elements who may try to direct it in certain ways, but it is not under the domination of that group by any means.

For **instance**, if I might state the religious connection of the men before you. I am an ordained member of the Baptist Convention of Ontario and Quebec; Mr. Fuykschot is a member of the Presbyterian Church; Mr. Matthews is a member of the Presbyterian Church; Mr. van der Zande is a member of the Christian Reform Church, and Mr. Boersma of the Christian Reform Church. So we are by no means sectarian. We can disagree very violently, and you should have been at our last convention on theological matters.

MR. MACAULAY: Well, in Holland, is there a rallying point for the opposition available under their labour legislation too?

MR. FUYKSCHOT: If I might answer the question. In that particular country there are various labour groups. About eighty years ago they started out as a socialist movement and then later started the Christian movement, which later got to the Catholics and Protestants. These groups are co-operating all the time, working together in the same plan. They are representatives of the same company. In the big companies like Phillips Electrical Company in Holland there are about forty thousand employees, they make up a standard collective agreement for all the men working in the plant and all organizations take part in that and they bargain together with the employers.

MR. MACAULAY: A lot of different unions

all bargaining together with the employer?

MR. FUYKSCHOT: That is right, and they work together, they have a constitution for all three.

MR. MACDONALD: They have no rating agreement under this?

MR. FUYKSCHOT: It is a constitution.

MR. WREN: Let us say, for example, the Catholic group of these three groups decide they do not want to sign an agreement with the other two religious groups in the union -- what happens then?

MR. FUYKSCHOT: Well, that does not happen. You see, I think it is the matter of democracy, to talk as much as you can till you find a solution. It was nice in the old days but times have changed.

MR. WREN: Well, let us say a grievance develops, a man is summarily dismissed, and you feel it was an unfair dismissal, who handles the grievance?

MR. FUYKSCHOT: It is handled by the shop steward. All these big companies have shop stewards.

MR. WREN: Assuming it gets to the top level, to the point where a strike may come up on the horizon, who on the labour side would represent the grievance?

MR. FUYKSCHOT: Well, since they cooperate we do not have strikes no more.

MR. REAUME: What a wonderful situation.

MR. JACKSON: Is this common in any other countries in Europe?

MR. FUYKSCHOT: Well, it is in other countries too, but on a different scale. In France it is somewhat different but there is an amount of cooperation, and also in Germany.

MR. WREN: In Holland you are allowed to strike by law?

MR. FUYKSCHOT: Oh, yes.

THE CHAIRMAN: They do have strikes in France?

MR. FUYKSCHOT: Oh, in France, sometimes.

MR. MACAULAY: And if one of the groups goes out on strike then do the others resist the temptation to work or do they sympathize and stay at work?

MR. FUYKSCHOT: It is an impossible situation that half would strike and half would not.

MR. MACAULAY: Why?

MR. FUYKSCHOT: Because it could not be working with this constitution between three or four.

MR. MACAULAY: There is a constitution between them?

MR. FUYKSCHOT: Yes.

MR. MACAULAY: Well, they are like a labour congress, are they not?

MR. FUYKSCHOT: No, they have separate congresses but in plants they work together.

MR. MACAULAY: Well, then, in order to have it work you would have a minority of the majority and everybody else to have a mutual constitution?

MR. FUYKSCHOT: It is a place for cooperation.

MR. MYERS: Might three men who are welders belong to three different unions?

MR. FUYKSCHOT: Yes, it is freedom of choice.

MR. WREN: Do you have many workers in those industries who do not belong to any group?

MR. FUYKSCHOT: Well, yes, sure, there are some who may refuse to join any union.

MR. WREN: But you do have workers in industry in Holland who do not join any unions at all?

MR. FUYKSCHOT: Not many.

MR. WREN: Then do you think, aside from straight religious convictions, mind you, there are conscientious objectors in the Commonwealth who by religious conviction are excluded from national duties, and I think rightly so, but aside from that do you think it is reasonable that a worker should work in an industry and enjoy all the benefits of bargaining, increased wages, better working conditions, insurance schemes, and so on, and not carry on his obligation of paying his dues? Do you think that is reasonable?

MR. FUYKSCHOT: No, it is not reasonable but still I do not want to force a man, I do not want

to cut him off.

MR. WREN: I do not like to pay taxes either, but I have to.

MR. FUYKSCHOT: The members are always trying to get members. They know we can only get them by persuasion so it makes the labour movement fight, they have to do something, they have to talk about it always. They cannot push it aside just like any closed shop.

MR. WREN: Would you say in some cases that a closed shop here, I think, has destroyed the initiative of union executives? For instance, we have a railway union in the West where one of the local chairmen had to put an ad in the paper to ascertain who the other local chairmen were to have a meeting. The head office of the union refused to allow them to communicate with one another. I have noticed in some unions, including check-off and everything else has had the result of union men who should have been exercising their responsibility were sitting on their hands and doing nothing. Of course, that is the fault of the union itself perhaps, and I can see some validity to your argument, but just how you ever organize a strong working movement where some workers are taking all the initiative and paying all the bills and others are taking no responsibility, I do not know how it is done.

MR. FUYKSCHOT: It takes a long time. They are more organized in the Old Country than they are here. Of course, the percentage is higher.

THE CHAIRMAN: On page 4 of your brief, Mr. Asseltine, you refer to:

"The increasing enactment of
"Right-to-Work legislation in
"the State legislatures in the
"United States is an indication of
"the recognition that the indivi-
"dual's rights of freedom of
"association must be protected."

Do we understand that you advocate a Right-to-Work legislation in this province?

MR. ASSELTINE: I am advocating this as an alternative to the right-to-work legislation as I understand it, the right-to-work legislation which nineteen of the forty-eight states have enacted gives the individual the of working in an organized shop and standing aside from his social group and not taking any part in its support and development, or opposition, if you want to put it that way. Now, what we are proposing here does not relieve the individual of that social responsibility. You see, we are in the trade union movement and I have to know some of the problems. We organized a plant outside of Hamilton with about sixty members and the first year collection of

dues was on a voluntary basis. Well, like all humans, it is very hard parting with the dollar and they never carried any money in their pockets so they could not pay their dues to the secretary of a union. The employer cooperated to the extent of saying, "I will put a dollar bill in the pay envelope for every one of these men," but still they managed to get away before the union treasurer could get to them. So, at the end of the first year that union was as moth-eaten as any union could be. However, then it was reorganized and they asked for a voluntary check-off, and with the signing of a new contract with a voluntary check-off everybody pays his dues, and I think over ninety per cent of them have voluntarily joined the union. They are supporting it and they are interested in it.

It needs a little assistance the same as the government has found that income tax, if you can collect from the employer it simplifies the collection. There are very real sociological problems in the handling of a group of men. They must feel first of all -- and I think it applies to ourselves -- we do not want to be pushed to join anything; that is contrary to our principles, thinking of course of political parties. On the other hand we recognize that the political party has the power to tax and reluctant as we are, or may be, we do carry out our social obligation in

the paying of the taxes. We have a good scriptural basis for that too, "To render unto Caesar the things that are Caesar's," and that is one of the things that Caesar has a claim on, and so if you think of it as a grass roots government it solves many of these social responsibilities.

MR. MACAULAY: On this right-to-work legislation in the United States, which you say is in nineteen of the states, how effective has it been? It is one thing to give a man a right and it is quite another thing to be able to exercise it.

MR. ASSELTINE: We have found that the principle of the Act they are discussing, a man has a right to join a union of his own choice but if he is working in a union shop ---

MR. MACAULAY: Is that some observation there, the right-to-work legislation in the United States, is it just a pious incantation which is put on the books to make you look like you are really a humanitarian or does it mean anything?

MR. ASSELTINE: It depends on how you look at it. If you are looking at it from the point of view of many of the labour leaders who call it a right-to-wreck union -- I do not think it is that serious, but I am inclined to agree with you that apart from what we put on the books about individual freedom there are social customs and relationships among men that

make it very difficult for an individual to stand out apart from his group.

A man working in a plant who does not want to attend the union, it is very likely you will find that there is an awful lot of trouble in his department -- machines get gummed up for no apparent reason. That is just a part of regrettable but normal human relations.

Now, I feel that the right-to-work legislation in the United States is ineffective for two reasons: first of all, it denies or does not recognize the individual's social obligation. It says to the individual, if you want to be contrary you can stand outside and not share in the responsibility for the improvement of your conditions. Secondly, is this other aspect that it allows, shall we say, the violation of the right because it is somewhat contrary to the prevailing attitudes of the society.

I am honestly convinced that this proposal which we have is not contrary to our democratic principles. It will take a few years before some of the unified life exponents will come to accept it, but at the same time I feel it is a very real possibility and is the healthiest alternative to the union shop or the right-to-work clause.

MR. YAREMKO: Does that mean a man would have all the responsibility of a union member without actually being a member? He would have

to pay his dues, he would pay not dues but a sum of money equivalent to dues but still not have a card within the union?

MR. ASSELTINE: Correct.

MR. MACAULAY: He could have it but he would not have to -- that is what you mean when you talk about the legislation, the contrary individual has to stand outside? What you mean is, it does not require him to be bound by general standards necessary for the continuation of the employment in a payment of dues and other things that make it carrying on a possibility. Is that not itself contradictory to this group which you want to protect? What about people who do not want to pay dues, where is your rallying clause for them?

MR. ASSELTINE: As Mr. Fuykschot has mentioned, we place great emphasis on the matter of education, and referring again to this one example of the plant outside of Hamilton, I do not suppose these men want to pay dues any more than anyone else, but by virtue of the fact that they have the voluntary check-off they are paying them. There are still social questions. If a man is standing outside the union then they want to know why he is not paying his fair share of the load. In other words, paying his dues.

MR. MACAULAY: Do they ask him any questions at all? If he is paying his dues would they

care how far he stayed away from the centre of gravity as long as he paid his contribution? Is that the thing that really sets the man apart?

MR. ASSELTINE: For most men I think it is a very significant thing in the work of a trade union, there are many of the members who do not attend the meetings, who do not take office or do anything but pay their dues, and so they are accepted as members in good standing. The non-member who is also paying dues would feel in the same category. It is just that when somebody is getting away without paying their one dollar or two dollars a month, and if you can operate on this political principle of a contract applying to everybody -- the dues apply to everybody -- then that satisfies the social principle that the majority of men have.

MR. WREN: Well, what attitude do you take in Hamilton towards the men? You say about ninety per cent are paying now. What attitude do you take towards the other ten per cent?

MR. ASSELTINE: If you are asking for my attitude it would be that he has a perfect right to stand aside if he feels we are not serving him that effectively. I feel it would be better in that situation if he was made to pay his dues the same as we all have to pay taxes, but, again, it is a matter of progress, of growth, and part of the people are still living in the days of their

grandfathers when the individual did his own bargaining with the boss, and we have come so far into the corporate society that we have to be operating with these men who do not feel their social responsibility.

MR. WREN: For instance, supposing one of those ten per cent were to be discriminated against by an employer, would you take his part and help him or defend him or represent him?

MR. ASSELTINE: Officially we would do everything for him the same as we would do for one of the members because it is our responsibility, having the right to exercise it impartially and universally.

MR. MACAULAY: If a fellow who belonged to the opposition who paid dues, using the word as you have used it, would pay two dollars' dues, would he not? He does not belong to the majority group; he has to pay dues to them, otherwise he stands outside the circle?

MR. ASSELTINE: That is right.

MR. MACAULAY: Now, he must belong to another group and for the other group to survive he has to pay dues there; he is paying two sets of dues?

MR. ASSELTINE: Many of our members are doing exactly that, they are members by virtue of the union shop of one of the other unions, and out of their conviction they are paying dues of one

hour's labour a month to the Christian Labour Association of Canada. That is something that arises out of their own convictions. They feel that here is something that is worth paying dues for.

MR. MACAULAY: I think that is a religious precept; I wonder if you would do it for a strictly labour movement? Would they pay two cents for that, and how would you collect the second if you cannot collect the first? Would you have two sets of check-offs?

MR. ASSELTINE: Our organization has not been in effect long enough to answer from experience, but I believe the opposition would be quite happy to pay their dues the same as you do to a political party.

MR. MACAULAY: How long have you been in force?

MR. ASSELTINE: As a bargaining unit, two years, with collective agreements, so to me that is no sort of problem.

THE CHAIRMAN: Are there any further questions of this witness?

MR. JACKSON: May I ask a question? Do the Christian Labour Association have any objection to the trade unions being made a corporate body?

MR. ASSELTINE: I do not know whether I am officially entitled to speak for the organization on that subject, but I personally feel it would

be a healthy development for a trade union movement to be incorporated.

MR. JACKSON: You feel they should be made responsible?

MR. ASSELTINE: Yes, if you would like to direct that question to some of our other officers?

THE CHAIRMAN: What reason do you give for that, Mr. Asseltine? That is your own personal opinion, I presume?

MR. ASSELTINE: As I have studied the development of society, and we have seen how a generation or two ago the big businesses grew up and ran riot over the rights of the rest of society and it was not until they became corporate entities that they could be dealt with as legal entities and their excesses could be controlled -- that is not any criticism, it is just recognizing the basic fact that human nature being what it is, we cannot be completely undisciplined and I feel at this point the corporation is the best solution that we have found in the democratic society in order to give an organization recognized status and to make it a legal body responsible under the laws and to have its rightful place in the midst of all the other corporations, and forming a part. I think those are two very important things.

MR. MacDONALD: Do you feel that the

excesses of businesses have been checked?

THE CHAIRMAN: We are not asking about excesses of anybody. I wish we could keep this committee from going off on tangents when a certain question is asked, to try and bring out some other motive. Is there any other question that should be directed to this witness? If not, may I on behalf of the Committee, Mr. Asseltine, express to you and to the members of your group our very sincere thanks and appreciation for the presentation you have made.

MR. YAREMKO: Before we adjourn there are a couple of items I would like to bring up. One is in the way of a suggestion to our Secretary. Perhaps he has already this in mind, but it appears as if our :briefs will be in the form of comments from various parties on various sections. Would it be possible for the Secretary in the course of our proceedings to make a continuous compilation, taking a section and then listing the comments that have been made in respect to each section, so that eventually when we come to deliberate we will have in concise form the opinions of a number of people in regard to certain specified sections.

THE CHAIRMAN: We will have the evidence, of course.

THE SECRETARY: Mr. Chairman, I have already taken that up with you and I will have

that in mind. It may be a problem, but I shall try to do it.

MR. YAREMKO: Would it be possible for us as a Committee to have a sketch, an outline, from the Department of Labour as to the union setups. Mr. Metzler, perhaps you might be interested in this: would it be possible for us to get a form or list or graph of the union setup within the province? For instance, I must confess that today we have heard from two groups that I had not known even existed, and there may be others. Would it be possible to have a chart drawn up from the experience that you have had, what unions are active within the province, and the membership?

MR. METZLER: Mr. Chairman, replying to Mr. Yaremko on that, the Federal Government from its Economic Branch puts out a booklet called "Trade Unions in Canada", and I think it would pretty well tell the story. I do not know whether the last edition was 1955 or 1956, but I will check on that, and that in a fairly concise form will give you pretty well an outline of the trade union setup in this province as well as the rest of Canada. Whether or not it can be reduced to a chart is a matter difficult to say for the simple reason that some of the organizations will not be associated with the Canadian Labour Congress.

Some are completely independent, and then there will be the CLC group. You asked about a chart -- I do not see just how you could do that.

THE SECRETARY: I will bring that book in the morning and let you have a look at it, Mr. Yaremko.

MR. MACAULAY: Then you can take it home and make a chart.

THE CHAIRMAN: Tomorrow we will meet at eleven o'clock and we are to hear from the Canadian Construction Association, the Ontario General Contractors Association and the Toronto Builders Exchange. Please be here on time.

---Whereupon at 4.00 p.m. the proceedings .
adjourned until 11.00 a.m., Thursday, September
26th, 1957.

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LEGISLATIVE ASSEMBLY OF ONTARIO

SELECT COMMITTEE ON LABOUR RELATIONS

Committee Room No. 1, Parliament Buildings,
Queen's Park, Toronto, Ontario

Thursday,
September 26, 1957.

JAMES A. MALONEY
HAROLD PERKINS
GEORGE T. WALSH, Q.C.

Chairman
Secretary
Committee Counsel

MEMBERS:

G. E. Jackson
Donald C. MacDonald
Ellis P. Morningstar
Raymond M. Myers
Arthur J. Reaume
H. Leslie Rowntree
J. W. Spooner
Albert Wren
John Yaremko
Robert Macaulay

APPEARANCES:

Mr. J. B. Metzler Deputy Minister of Labour

THE CANADIAN CONSTRUCTION ASSOCIATION
THE ONTARIO GENERAL CONTRACTORS ASSOCIATION
THE TORONTO BUILDERS EXCHANGE

J. J. Pigott

R. M. Foster

L. W. Howes

J. C. Adams

THE CHAIRMAN: Gentlemen, we will now commence this session of the Committee. You will have observed from the presses last night and this morning that Mr. Reaume, a member of this Committee, had probably read the mind of the Minister of Justice with the result that one of the problems brought before the Committee seems to have been solved for us without any further consideration in that the Minister of Justice now states that judges are no longer to act as labour conciliators. In view of that I think we have been confronted with another problem and that is who will be acting as conciliators, and what his Department is going to be able to do about it, but we will have to consider that as the meetings progress. I am thankful to Mr. Reaume for having the foresight to know that this was going to happen.

MR. REAUME: I want to say that the people at Ottawa have done one thing at least that is all right.

MR. JACKSON: You are beginning to think like a Conservative.

THE CHAIRMAN: Order. This morning we are going to hear from the Canadian Construction Association, the Ontario General Contractors Association and the Toronto Builders Exchange. Their brief for the three presentations is contained in one document, and I would ask the Secretary to be good enough to advise us as to who is appearing.

MR. ROWNTREE: Mr. Chairman, before we proceed may I ask what other briefs have been received by the Secretary? Are they coming in as expected? I was looking over the briefs I have, the copies I have received, and there appears to be a number who have declared their intention to file but we have not got them yet.

THE SECRETARY: That is true, sir. I have received about sixteen briefs out of the fifty expected. The others have been delayed but I think they will be received in good time. Two of these that are scheduled for next week will be delivered today or tomorrow and the rest of them have not been delivered to the Committee as yet. They are down in the vault and they will be delivered promptly.

Mr. Chairman and members of the Committee, I would like to present to you the committee representing the Construction Associations, and we have here their representatives, Mr. J. J. Pigott, the chairman; Mr. R. M. Foster, the vice-chairman, and Mr. L. W. Howes, the secretary of the committee, and also Mr. Joseph Powadick, who is accompanying the committee. You will also see a list of supporting organizations who are joining in the briefs. I omitted to introduce to you legal counsel for the committee, Mr. J. C. Adams, Q.C.

THE CHAIRMAN: Thank you very much, Mr. Perkins. Who will be presenting this brief?

MR. PIGOTT: I shall, Mr. Chairman.

THE CHAIRMAN: We will be glad to hear from you now. What we have been doing is asking someone to read the brief and then after it has been gone through we will discuss it.

MR. PIGOTT: Thank you, sir. In addition to these three Associations there are twenty-two other employer associations in the industry that are sponsoring this brief and have endorsed all of the views expressed in it.

THE CHAIRMAN: They are the ones referred to in these two sheets of paper.

MR. PIGOTT: Yes.

(Mr. Pigott reads brief.)

THE CHAIRMAN: With reference to the summary, No. 2 the repeal of section 4 of the Combines Investigation Act you merely want us to make a recommendation if we so consider it should be done? You realize this is a Federal statute. We have nothing to do with its administration or operation.

MR. PIGOTT: We appreciate that fact.

THE CHAIRMAN: Now then, gentlemen, it is 20 minutes to 1 o'clock, and we should commence the examination of this brief page by page. The first part of the brief of course is devoted to consideration of the nature and size of the industry and should not take too much time in considering. Are there any questions to be directed arising out of page 1 of the brief, size of the construction industry.

MR. ROWNTREE: Did this industry or the groups you represent engage in marine construction involving water-borne equipment, or are you purely a shore operation?

MR. PIGOTT: We are pretty well entirely a shore operation.

MR. ROWNTREE: Do any of your members engage in marine construction?

MR. PIGOTT: Yes. There are several companies. For example, a company such as the Foundation Company. They are part of the group.

MR. ROWNTREE: And do they have for that operation these group agreements which you have discussed in your brief?

MR. PIGOTT: They would have not group agreements; they are separate collective agreements.

MR. ROWNTREE: Do they have separate collective agreements with the same unions as you do with the Building Trades Council -- Toronto Builders Exchange?

MR. PIGOTT: In so far as I would think the one trade is concerned. The operating engineers obviously in work of that kind, would not have agreements with trade such as bricklayers and cement masons, although they naturally, since they are also engaged in building construction, they do have agreements with all of the trades referred to here for their building operation.

MR. ROWNTREE: My second question to you is are you able to give me any information as to the proportion of work which your industry

performs which is for private account as against public account. To assist you, I refer to the fact that in, let us say certain marine construction, the bulk of that work is for the public account.

MR. PIGOTT: I could not give you a figure on that, although I am sure that those statistics could be gathered. All members, they are listed on these sheets of course; the total membership of those associations totalling slightly over 4,000 companies.

MR. ROWNTREE: Yes?

MR. PIGOTT: And I would suppose there is not one of them that has not engaged in a certain amount of public work.

MR. ROWNTREE: I do not want to put you to a lot of trouble, but would you say that the work on public construction for the public account would occupy a large percentage, or in the over-all picture is relatively small?

MR. PIGOTT: No, I would say it would occupy a reasonable percentage. It is not an insignificant percentage.

MR. ROWNTREE: Would you care to discuss it at your convenience, and if it is convenient, I would hope to have a considered estimate without going into a lot of detail.

MR. PIGOTT: Yes, sir.

MR. MACAULAY: I was going to say, Mr. Pigott, Mr. Chairman, you take your figures of \$6 billion and \$2 billion respectively from the Dominion Bureau of Statistics; they would also have the figures of how much of that was public account and how much was private account

MR. PIGOTT: Yes, sir, I believe that is right. There should be no difficulty in putting the approximate figures at least on that.

THE CHAIRMAN: And isn't that on page 2, gentlemen?

MR. WREN: Could I ask the witness in a general way, these difficulties relating to your jurisdictional disputes, how great is the proportion of these disputes in the building of homes would you say? Do you find that same difficulty in home building as you would on major projects?

MR. PIGOTT: As far as the house building industry is concerned, that is a field in which the Association sponsoring this brief are not very heavily engaged. As you probably know, the house building industry to a great extent engages non-union personnel, and for

that reason it is not a field that we are operating in to any extent.

MR. YAREMKO: On page 2, you refer to the figures of the total working forces in Ontario. Can you give us any idea of how, for example, that 226,793 persons directly employed in Ontario on construction projects, what proportion of that would be employees covered by collective agreements at the present time?

MR. PIGOTT: I don't know, sir.

MR. YAREMKO: Most of them?

MR. PIGOTT: I think we might be able to get a source of information that would give us that, but I do not have that.

MR. MacDONALD: As a matter of information on that total working force figure on page 2, there was a news story a week or two ago that indicated the figures was over 6 million. It is rather interesting the increase in that time.

THE CHAIRMAN: This is an accurate record taken from the Labour Gazette, as I understand it, in March, 1957.

MR. PIGOTT: Yes.

THE CHAIRMAN: You do not have any further information from the Labour Gazette?

MR. PIGOTT: No.

THE CHAIRMAN: If there is nothing else on page 2, we will turn to page 3, "Nature of the Construction Industry". Reference is made on this page to Exhibit 1. Anything arising out of page 4?

MR. WREN: Mr. Chairman, there is one question there, the second paragraph, the last sentence. The sentence is made "Each separate contract is in effect a separate project so far as the employment of labour is concerned." Am I to understand that at the present time, each agreement you negotiate is negotiated for the life of your contract, or is it for any given time?

MR. PIGOTT: Each agreement that is negotiated is negotiated for a specific length of time: One year, two years, covering a certain geographical area, such as the area of Metropolitan Toronto.

MR. WREN: For example, the Imperial Oil Project, if it were to take four years to complete and you had a two-year contract, you would have to re-negotiate another contract?

MR. PIGOTT: That is correct. Collective agreement with labour is not related to any project.

MR. REAUME: I want to ask a question

on that point. Is there such a thing as entering into a pre-work agreement or pre-job agreement on a certain job? Do you ever sit down with the millions involved and say an architect has drawn up some sort of modern building, and in view of the changing times and conditions, there is bound to arise in the building of this building some arguments as to whether they are going to use for example aluminum siding; that might bring on an argument or dispute between the sheet metal workers and the carpenters and say "Let's iron out this problem before we start"? Is there any such a thing, or do you just go with the job and then wait until the arguments start after the project is started?

MR. PIGOTT: I understand your question and your point is well taken. The difficulty is this: Each of these contracts is negotiated with a separate employer group, and there is no positive means of one group we will say negotiating this agreement with a carpenter -- there is no means that that group has of knowing that some other group in the building trade industry may at the same time or a month later be negotiating an agreement with a different group of employers and insisting on a similar jurisdiction. That

is one of the difficulties in not having collective negotiations between the groups of trades and groups of employers.

MR. REAUME: I understand that. I was thinkin g of carpenters and bricklayers. They are kind of in a sense fading out of the picture in a way, and I suppose the attitude of carpenters and others is that they are always trying to hold on to what they had years in the past. In other words, it has been that both of these unions in the old days were good . reputable unions, and still are, but they can see where certain jobs of work in the building of abuilding, are now slipping away from them and they are trying to hold on to it. I can understand with these modern improvements and things advancing as they are, you are bound to entail a bunch of arguments as the building is going on.

Now, I agree with you that every effort ought to be made, and I am hoping we might in some form be able to do something to at least ease these disputes between one and the other, but I know of an instance in Windsor where a company let a job to the Winston people, and it was a somewhat different sort of job I think than the average job that comes along.

There was involved in this building, in this job, a lot of different crafts, and so the unions involved and the company prior to the time of the starting of the job -- it was a big job -- they sat down and they defined what jobs shall be done by what union and what jobs shall be done by the other, and it worked out very well. But the trouble I think, if there were troubles, if you could call them that, were ironed out prior to the starting of the job, and not waiting until after.

MR. PIGOTT: Sir, it is not possible to do that for this reason: That we will sign a contract covering a period of one or two years on a certain date. It may be any time within the next two weeks or two years or two months, but certain projects are required to be tendered on that were not even known to exist by the parties that signed that collective agreement. Secondly, these disputes more often than not, arise without warning despite precedent that has obtained in the past. For example, in the city of Toronto, for years, for many years, as long as I can remember, general contractors have had common labourers strip the form work after the concrete had set. They pull down the forms. All of a sudden, without any

means of knowing beforehand, the carpenters decide that that is within their jurisdiction. It is not for us to say who is right and who is wrong, but there was no means we had of anticipating any such thing, and were promptly faced with a work stoppage.

That sort of thing has happened again and again in disputes relating to that type of work that has been in existence for a long time, but suddenly one union or another decide that many years ago they used to do it, and suddenly they feel they should have it again.

MR. REAUME: I wonder if I might ask just one more question on this business of taking the forms. I am assuming you are talking about the forms that go around --

MR. PIGOTT: We will say on a wall you have wooden forms on both sides and in the centre you pour concrete, and when the concrete has set and cured properly, the forms are released and pulled back and carried away to be used somewhere else.

MR. REAUME: You did not find in the old days that labour which is not trained properly and a little bit in a hurry were rough in pulling the forms apart, that they

would in some way hurt the forms or damage the forms with which you have to work? Has that ever been the experience?

MR. PIGOTT: No, as I say, Mr. Chairman, taking that instance, we are not arguing as to which trade should do that job. What we are saying is that we have no means of knowing when one of these arguments is going to start.

MR. REAUME: I see.

MR. PIGOTT: When they both start to argue, the labour union says that it belongs to them and carpenter unions says it belongs to us and we can and say we have to finish this project, make up your own mind, and we have to get along with it. Evidently you may get a solution, but in the meantime your job is stopped, or you are forced into some compromise that will cost money that you had had no means of anticipating.

MR. YAREMKO: We heard the other day, I think in regard to the Adam Beck project in Niagara Falls, where there was an agreement --

MR. METZLER: I was going to mention that in connection with the re-development of the water powers on the Niagara River, a project that runs to something like \$400 million. There was a special building trades council set up, and I believe it was something like 187 unions

involved in negotiating what Hydro as the prime contractor. There was one agreement signed between 18 unions through their Building Trade Council and Hydro Electric Power Commission.

Under the terms of that agreement a provision was written in that if a jurisdictional dispute arose between any of the trade unions, there would be no stoppage of work, and if the unions involved in the jurisdictional dispute were unable to resolve it within 10 days, then the Hydro Commission would have the right to appoint or assign the work to the particular union.

Now, as a matter of experience, I do not know how many years that project ran, but there was never a day's work lost on the project, and I believe that those same terms and conditions have been applied in connection with the development of water power on the St. Lawrence River.

MR. REAUME: I wanted to ask you this --

MR. METZLER: Excuse me. I am told by Mr. Reid that the same situation now obtains in connection with other Hydro developments in the North.

MR. REAUME: That is what you might term pre-work arrangement, or agreement, isn't that right?

MR. METZLER: Is it a collective agreement?

MR. REAUME: You agree to this at the time you start on the job?

MR. METZLER: I could not say that the agreement was negotiated before the onset of the work. I would imagine it was, but I do not know as a matter of fact.

THE CHAIRMAN: Can we find out?

MR. METZLER: Yes.

MR. MACAULAY: It must have, otherwise they would not know what unions would be in the agreement.

MR. YAREMKO: Might I ask if members of the construction industry have themselves undertaken a project in which a solution of this kind was worked out?

MR. PIGOTT: We have, Mr. Chairman, we have endeavoured on a number of occasions to persuade the building trade to negotiate with us as a group through their Building Trades Council, and we in turn negotiate as a group on the employers side of the table.

We have never succeeded in persuading them that should be done.

Now, you have spoken of the Ontario Hydro Development at Cornwall. I point this

out that that is a blanket agreement, and it is a fine thing. Everyone knows ahead of time you have a monstrous project facing you, a special type of operation lasting for an extended period of time, and preparation can be made to deal with that one contract by itself. Most the contractors representing our association may have anything from 20 to 40 contracts on at one time anywhere in the province. They are not of the proportions that the Hydro Development is, and another point is that the reference to the provision in that agreement that the Hydro drew up with the trade unions, the fact that there has been no strike provision in the event of jurisdictional dispute, I would point out in every one of our building trades agreements there is a "No strike" clause. There is a grievance procedure laid down but it still has not solved our problem. We are still faced with stoppages and threats of stoppages and strikes despite the fact that the contract requires the union not to strike and the employer not to lock out.

Another important thing in connection with the blanket agreement, in the case of the Ontario Hydro on their power development is the fact that those wage rates are to be adjusted

in accordance with whatever wage adjustments are made by the Toronto Builders Exchange from time to time.

THE CHAIRMAN: Gentlemen, we will resume at 2 o'clock sharp.

--- The hearing adjourned at 1.o'clock to resume at 2 p.m.

---On resuming at 2.00 p.m.

THE CHAIRMAN: Gentlemen, at the adjournment we were on page 4, I believe.

Are there any questions arising out of page 4? Any questions on page 5? Page 6? Page 7?

MR. MacDONALD: Before we leave page 6 -- this is, perhaps, more of an observation than a question -- but, Mr. Pigott, aren't a lot of the difficulties, the anomalies and all the other kinds of problems in the building industry arising from the fact that you do have what you yourself describe in the middle of page 6 as a collection of people who are not regularly employed? In other words, in past years you have had people who were employed for a short time and they faced the proposition of being unemployed for maybe an equal length of time, and a lot of this has developed because of that condition in the past, because in the last immediate years, maybe, we haven't had that condition because of our rapidly expanding economy; but you know it may return.

MR. PIGOTT: That is not quite the point we are trying to make there.

The nature of our industry is such that our working forces are largely transient; they have to be. For example, if my company has a building

to do that is being built out, say, on Bloor Street, and it is at the stage of masonry construction, when the brickwork is finished on that building all your bricklayers have to go somewhere else. They will go to another contractor. They won't remain with my company. So that it doesn't mean that they are unemployed; but it does mean that they move from one project to another, and depending upon the amount of this particular work at any one time of the year their employment will fluctuate.

MR. MacDONALD: But my point is that at the moment they don't remain unemployed, because we have had a booming construction industry; but during the past decades -- the past generations -- they have found themselves in the position of being as much unemployed during the year as employed. I am just making the observation that a lot of what may appear to be irrational practices that have grown up over the years were to protect the livelihood of their families -- themselves and their families.

MR. PIGOTT: I am afraid I don't quite see the context of the observation.

MR. MACAULAY: Nor do any of us either, but don't worry about it.

MR. MacDONALD: I will return to it and put it in its context.

THE CHAIRMAN: Anything else on page 6?

MR. YAREMKO: To clarify my own thinking, on page 7, the third line . . .

THE CHAIRMAN: Page 7?

MR. YAREMKO: Are we at page 7? I am sorry. I am referring to "Employment agency." Does that mean that when you wish employees within a craft you have to refer to the Council for the employees?

MR. PIGOTT: Yes.

MR. YAREMKO: And they assign them?

MR. PIGOTT: Yes.

MR. YAREMKO: They assign the individuals who will be in your employment?

MR. PIGOTT: Yes. In other words, we cannot employ anyone but the members of that union.

If I have a contract that is to start tomorrow and I require one hundred labourers and two hundred carpenters I must employ members of those unions even although I may not have any other members on my payroll at the moment.

MR. YAREMKO: But do you apply to their office, or do you go out and directly employ members of the union?

MR. PIGOTT: Generally we apply through their office. That is the general practice. In certain trades we are required to. In others we may employ men who appear at the site seeking employment, providing they produce a union card and

are in good standing with their union and approved by their shop steward.

MR. YAREMKO: What happens if you have an arrangement whereby there is a manning pool or pooled labour, and you phone them and they can't supply them? What are your rights in that situation? Can you go out on the street then, or do you . . . ?

MR. PIGOTT: No. I think in just one agreement -- I believe I am correct that out of all the agreements we have there is only one agreement that provides for such a contingency, and that is the agreement with Common Labour which provides that if they are unable to supply men we need we may hire whom we please provided that they join the union within a stipulated time.

THE CHAIRMAN: Anything else on page 7? The bottom of page 7 -- "Practices in the industry"? Page 8 -- "The Monopolistic tendency of craft unions." That is continued on to the first paragraph on page 9. Is there anything there, gentlemen?

Page 9 -- "The contracting status of craft unions"? Anything arising out of that?

Still on page 9, item 3 -- "Multiple employer bargaining" -- and continuing on page 10 and page 11 and the first three lines of page 12?

MR. ROWNTREE: Are the contracts of various companies generally on the same pattern, Mr. Pigott?

MR. PIGOTT: The mean the contract between owner and contractor?

MR. ROWNTREE: The labour contract?

MR. PIGOTT: Our labour contracts are generally of the same pattern, with variations in benefits and that sort of thing. There are differences, for example, in travelling allowances and other benefits; but, generally speaking, they are based on the same principles.

MR. ROWNTREE: The same general pattern; and would I be right in concluding that in the city there is a tailoring to fit the particular company in their relationship with the union? Would that be right?

MR. PIGOTT: I am sorry, would you repeat that?

MR. ROWNTREE: That the general pattern of the agreement arrived at as a result of multiple employer bargaining establishes generally a basic pattern which is the same pattern for all companies, subject to minor amendments which will apply to a particular situation?

MR. PIGOTT: Yes. We believe that the differences that presently exist in those forms of agreement are not sufficiently substantial to preclude the possibility of standardizing them.

MR. ROWNTREE: If there were any major agreement being changed in the pattern of the

agreement would you all have the right to negotiate that, or would the union take the lead . . .

MR. PIGOTT: No; we negotiate as groups. For example, the General Contractors will negotiate with six unions in the General Contractors section; there will be approximately, in the Builders Exchange, seventy general contractors; so that we negotiate as groups, with our committees, but we must negotiate with each of these six unions however we draw the contract -- one contract with each one.

MR. ROWNTREE: There is one other point, while I am speaking, Mr. Pigott. You described -- I think your words this morning were that each agreement -- labour agreement -- was for a stated period of time in a given area.

MR. PIGOTT: That is right.

MR. ROWNTREE: Now, supposing you have a contract that is going to extend for two or three years -- in any event, beyond the term of a labour agreement -- then what happens to the quotation that you gave? Would you just describe your position if there were union negotiations, and let us take the factor which is usually the case, of wage increases?

MR. PIGOTT: Yes. A large building contract -- take a building such as the Imperial Oil building: From the time the foundation starts

until it is completed will be approximately two and a half to three years. Such a contract -- project -- may start halfway through the term of twelve-months' agreements. During the course of construction, on the expiry dates of those different agreements, new contracts must be negotiated, and if there are wage increases the contractor pays those. He is not reimbursed by the owner. That is not a part of their procedure. The contractor considers it at the time of tendering. He must try and estimate, in competition, the extent to which he feels he must protect himself against what might happen in these various trades during the course of the contract, or the project.

MR. WREN: Is there never an occasion on which you include escalator clauses?

MR. PIGOTT: Immediately after the war, when conditions were so unpredictable that really no one was willing to enter into a contract unless he protected himself, escalator clauses were fairly common, but they went out of practice, I would think, about 1947 or early 1948; and certainly in the last eight years escalator clauses have been virtually non-existent.

MR. YAREMKO: Well, Mr. Pigott, if the situation is as you have stated it, that in making a tender, even with competition, you would estimate, or "guesstimate" a certain amount for this protection,

and if the other party to the agreement is probably aware of the fact that you have "guesstimated" a protection -- a cushion -- are they not likely just to say: "Well, that has been provided for in the tender. The contractor has protected himself. We will now apply for that cushion that has been made available"?

MR. PIGOTT: I think that that is certainly a thought that might cross the minds of the union officers at the time they were entering negotiations, but it is a fact that conditions have been so competitive in construction that any contractor who hopes to be the low bidder on a contract allows virtually nothing in the way of increase and gambles in the hope that those increases won't take place.

MR. YAREMKO: It doesn't necessarily follow that the buildings would be cheaper if you had some protection on negotiations occurring in the middle of a contract?

MR. PIGOTT: Yes, I think so. The negotiations occurring during the course of construction affected a great many trades other than the general contractor. For example, the plumbing contractor will sit back in the knowledge that an agreement has terminated -- there is a strike over that issue at the moment, which is an illegal strike. In the knowledge that that is coming up he would allow for it, just as we will if we

feel confident that we are going to be stuck with something.

But it occurs possibly eight months out of the twelve months in every year -- the recurrence of agreements terminated and new agreements being formed.

MR. JACKSON: Just as a matter of information: What is the proportion of the cost of labour in building? I know it varies among certain buildings and as to the type of contract, but would it be one-third?

MR. PIGOTT: On the overall general contract it is difficult for me to give you a percentage because it varies so much from trade to trade. So far as the general trades are concerned -- that is, concrete, brick, reinforced steel, and so on -- it runs pretty close to fifty per cent, and, of course, that involves a fair amount in every contract in the framing of a reinforced concrete building.

Then you get into the specialty trades where the percentage may be considerably less than that; but in the total cost of a building I would say that the cost of labour is almost the entire cost of your building in this way, that a brick is created from materials that are just in the earth. It is labour that makes the brick that is delivered to the building; and right

throughout the piece of supplying companies, the subcontractors -- you can go right back through -- it is labour that has gone into them.

MR. MacDONALD: There are surely other factors involved. Every company along the way is going to have its overheads, including profits, so how do you draw the conclusion that it is almost one hundred per cent?

MR. PIGOTT: I say that it is really very close to one hundred per cent labour. Your general overhead includes clerical staff, accounts . . . -- it is not labour in the sense of a man working with tools, but it is still labour.

MR. ROWNTREE: Have you ever tried to negotiate a labour agreement to cover a specific building project, along the lines of the pattern taken by Ontario Hydro?

MR. PIGOTT: No, we have not. We have tried to get the building trades to agree to negotiate a common agreement covering all trades with varying wage rates, etc., covering a certain geographical area such as, say, Toronto, to be agreed upon, without success.

MR. ROWNTREE: Without what?

MR. PIGOTT: We attempted to, without any success.

MR. JACKSON: Whose fault was that?

MR. PIGOTT: We wanted it and the unions didn't want it.

MR. JACKSON: They refused to negotiate?

MR. PIGOTT: Yes.

MR. MacDONALD: That is your opinion as to why they were willing to come to that agreement with Hydro but not with you?

MR. PIGOTT: In their agreement with Hydro the wage rates are to be adjusted at any time. This adjustment was made in an agreement through the Toronto Builders Exchange; so that when we negotiate separately and a carpenter's rate goes up it automatically goes up on the blanket contract of the Hydro.

I think the reason they have been reluctant to enter into blanket negotiations is basically, of course, that when they negotiate separately, as they do, they are in the position of waiting until the union in the strongest position is able to make its deal and have a contract signed, following which they come up with the same degree of demands; whereas, if they negotiated together they find it very difficult to agree amongst themselves as to established relationship between, for example, the carpenter and the bricklayer. It is probably a matter of pride.

MR. REAUME: That is so. I suppose a man who belongs to, or is working for, a union would be a little biased in favour of his own group, and he wouldn't allow a member of the

other group to be speaking for him.

I imagine the matter of pride enters into it; and, probably, also, to a certain extent, the matter of fear. It might be that -- I don't say that it would happen -- but it might be that a bricklayer might do something in favour of his own group at the expense of the other group.

MR. PIGOTT: Yes. It is very obvious that there is a relationship between these crafts, and has been for quite a long time. It fluctuates due to the difference in timing between the termination of settlement, but it is a matter of record that at a meeting of the National Joint Conference Board which was convened in Ottawa during the war -- which was a Board consisting of employers on the one side and the international union officers on the other -- at a meeting in 1941 this National Joint Conference Board declared that the wages paid in the construction industry in 1939 were fair and equitable, with certain specific exceptions. None of these exceptions existed in the Toronto area. The fact that they had declared that those wages were equitable was quite important, and that statement is a matter of published Minutes; and the meeting was attended by very senior officers of all the building trades. Taking that as a starting point we proposed to the unions -- this is back about 1948, I think,

or 1949 -- the fact that the wages paid in 1939 were equitable in the building trades -- we proposed to the unions "Let us take 1939 as a datum point, and, we will say, common labour in 1939 got 50 cents an hour and carpenters got 90 cents an hour, then the ratio of 90 cents to 50 cents would be the difference between a carpenter and a common labourer, and so on through all the trades; and, accepting that as the datum line, let us sit down and agree what the rates should be today, and if we settle on an increase of 20 cents then the same relationship could be worked out so that the same relationship will exist today as existed in 1939." They would have none of it at all.

MR. YAREMKO: What actually happened? That relationship between, say, the carpenter and the labourer -- is that as wide, or is it narrower? Has the labourer been brought up to the carpenter, or is the carpenter still ahead?

MR. PIGOTT: The relationship between common labour and the skilled trade has narrowed. However, whether 1939 is, or is not, a fair datum point, we have asked the unions to settle among themselves what the relationship should be in order that we might sit down around a table and settle all these agreements at one time; but we cannot seem to get anywhere with that proposition.

MR. REAUME: It is a very hard one, I

think, to work out, because if we recognize the fact that a man is entitled to join the union which he wants to join then I think it naturally follows that that union has the right, or ought to have the right, to work out its own agreement and bargaining for itself.

I want to ask you one question: Is there any area in the province at all, be it a big city, or any place at all, where the Exchange and all of the crafts have sat down and worked it out? Has it even been attempted, or have the unions gone so far as to say that they will be glad to sit down and even speak about it?

MR. PIGOTT: They have sat down and discussed it.

MR. REAUME: They have?

MR. PIGOTT: Yes; right here in Toronto; but they have refused, when the matter came down to the point of actually negotiating such an agreement -- there were a number of trades that flatly refused to have any part of it.

MR. REAUME: I think you would find -- I don't know how long ago it would be, but it happened in Windsor -- there was a dispute between different crafts and the Exchange, and on one occasion at least -- this may be back as early as 1952, or some time around then -- that they did all sit down and at least agreed to certain

bargaining rights, or agreements, all at one time. Whether that was carried on or not I don't know.

MR. PIGOTT: I think that might have been in connection with some specific dispute.

We sit down frequently with the building trades council to discuss problems, but they will not sit down with us as a council representing all of their trades to negotiate a contract.

We have not insisted that the relationship between one trade and another be frozen. We have said: "Let us draw up a standard form of agreement and then you can come and tell us what you want for each of these various trades and we will deal with them all at the one sitting, and if there is conciliation necessary we will have that conciliation with respect to the overall problem" -- because it could happen, and, naturally, does happen, human nature being what it is, that, occasionally, one of the trades will ask for something that is completely out of line with its standing in the trades. For example, one trade may be working on a fairly reasonable relationship with the other trades and all of a sudden the other trades will demand an increase of 15 cents, and they come along and say: "We want a dollar." That would be an exaggerated case, but that is the sort of thing that happens. We would ask for conciliation to deal with all of these at the one time, and the conciliation officer, or a board,

would say: "These wage rates are reasonable, but your particular one is out of line and we recommend that it be adjusted." In that way we could settle our agreements at one time instead of having them ending at varying times throughout the year and constituting a constant threat to peace in the industry.

MR. REAUME: Isn't there a little book published by the crafts themselves -- the union -- that pretty well sets it out as to whether, say, a hoist engineer is entitled to carry passengers and freight and vice versa? Isn't there such a book which, I think, is known as the GreenBook?

MR. PIGOTT: Yes, the Green Book. If they would all agree to interpret their own Green Book in the same fashion we would have peace.

MR. REAUME: Who is the author of the Green Book?

MR. PIGOTT: I believe that is the American Federation of Labour in Washington.

MR. REAUME: Then, would you say that the people who are the authors of the Green Book don't agree among themselves as to what is the meaning of the various parts of the Green Book?

MR. PIGOTT: I cannot speak for the authors, but I can speak for the officers of the local unions who have to interpret and go by their own Green Book. The one example we gave here as an instance was the difficulty with

elevator operation at the Imperial Oil building. The elevator contractor union flatly refused to pay any attention to what the hoist engineers union had to say, or what the Green Book had to say, or what their Joint Conference Board for jurisdictional disputes had to say. They said: "Our position is that we have been doing it for years and we will continue doing it."

MR. REAUME: Then, I want to ask one more question: I wonder, Mr. Chairman, if you would order a supply of the Green Book so that we may have an opportunity of studying it?

THE CHAIRMAN: Mr. Perkins, would you get each member of the Committee a copy of the Green Book?

THE SECRETARY: Yes.

MR. YAREMKO: Mr. Reaume made a remark earlier about the freedom of choice in joining a union, but a bricklayer joins the Bricklayers' Union; he doesn't join the Carpenters' Union.

MR. PIGOTT: Dealing with this Green Book, there is one example which I can think of which happened just recently. For many years we have been erecting ordinary tubular steel scaffolding with common labour, and it has been going on for years. Nobody has ever said anything about it. All of a sudden, without warning, the Carpenters' Union said: "Here, we have an award on record in 1921"-- at which date tubular steel

scaffolding didn't exist --"that says the carpenter has the right to build any scaffolding of over 14 feet in height." Well, it is true. It is there. But it was placed there at such a time that steel scaffolding was not even thought of.

All those problems are occurring constantly and we are not attempting to dictate as to which party is right -- but we would ask that some procedure be set up so that a decision can be arrived at without interruption to the industry.

THE CHAIRMAN: Thank you, Mr. Pigott.

MR. ROWNTREE: It seems to me that we are here onto something that is rather important.

I have one more question: You say that since 1947/48 the escalator clause has gone out of fashion and that, in construction, jobs are done on general patterns, or fixed prices . . .

MR. PIGOTT: Yes.

MR. ROWNTREE: . . . and in the middle of that job there could be reopening of any labour contract?

MR. PIGOTT: Yes.

MR. ROWNTREE: With, let us assume, an increase in wage scale?

MR. PIGOTT: Yes.

MR. ROWNTREE: And that, it may be, is one of the factors the bidder has to take into account?

MR. PIGOTT: Yes.

MR. PIGOTT: Yes.

MR. ROWNTREE: With the impact, even in the competitive field of bidding, which would be caused by an increase in your payroll during the course of the contract, it seems to me that we have got to the point where a small company can't afford to bid on certain contracts, and that brings about the situation where we would find ourselves going in the direction where the only firms that would be able to take a risk are the large ones. My interest in this matter is from the point of view of the little firm. It may be that that firm just can't get going. What is its position?

MR. PIGOTT: I don't think that that actually happens in practice. The smaller firms deal in smaller jobs and their payroll is in proportion to their capital structure, generally.

The matter is equally serious to big firms, because their payrolls may run into millions, and the smaller firm may have a payroll of fifty thousand dollars.

But there is a tremendous difference between the effect of a demand on a contractor and the effect of a demand on, we will say, a manufacturing firm. If two companies happen to be manufacturing the same product in Toronto, one in one end of the city and the other in the other end of the city, and a union approaches

company "A" and says: " I demand that we have n
an increase in wages," or "I demand that your
men join this union whether they like it or not and
you are going to pay that rate" that company, in
the knowledge that competitive company "B" has a
different union, or has not been approached at
the same time, has the fear of being priced out
of his market. He resists for that reason, to a
great extent. It becomes quite an incentive factor.
With a contractor it is quite different in this
respect, that the contractor is hurt to the extent
of what you might call his inventory -- his uncom-
pleted contracts. But so far as his future work
is concerned he has to see that those increases go
into his new tender, and his costs are passed on
to the public.

MR. JACKSON: Are we on page 14?

THE CHAIRMAN: No. We are coming to
jurisdictional differences on pages 12, 13, 14 and
the first paragraph of page 15.

Is there anything on page 12? Page 13?
Page 14 -- you have a question, Mr. Jackson?

MR. JACKSON: I have two questions I
would like to ask Mr. Pigott, if I may.

The first one is that we have heard
from Mr. Reaume the reasons he thought that there
was trouble with these jurisdictional differences.
Would you care to express an opinion as to why you

think there is so much trouble?

MR. PIGOTT: Yes. So far as trouble is concerned, from the contractor's point of view we are not troubled if two unions argue among themselves, so long as they don't interfere with the work in progress; but when these unions reach a point where they can't agree among themselves invariably what happens is that they decide that the best way they can accomplish what they are after is to apply pressure on the contractor to try and settle their differences, in the knowledge that if they create a stoppage of work and if that one trade throws up a picket line the other trades won't cross it and the job is closed down. The cost to the contractor of closing his work down is a much more serious thing than the cost of any compensation that he might make. They know that. A contractor might, under the Act, apply for a hearing before the Labour Relations Board and obtain leave to prosecute, and, subsequently, a prosecution could take place if implemented by the contractor, and a fine might be levied; but the maximum fine is a thousand dollars. Generally speaking, this fine is a very inconsequential sum in comparison to the issue at stake in a jurisdictional dispute, since generally it is a drive on the part of the union from their own headquarters. It is intended to cover a great deal more than just the one instance ultimately. So that the contractor knows

that if his work is shut down he stands to lose thousands of dollars while it is shut down and he can't recover anything in damages. So that the unions, when they say they can't settle it between themselves -- the one union will go to the contractor and say: "I demand that you give this to my trade, because if you don't we will stop work." It is the threat more than anything else that causes the troubles and compromise such as the one referred to on page 14.

MR. JACKSON: Do you say, or are you inferring, that in some of these jurisdictional disputes there may be more than is on the surface -- that they are used by unions to effect wage increases or to change an agreement which is in existence?

MR. PIGOTT: No; I think they are being used by the unions in stepping up their organizational drive to increase the scope that will be carried out by their members in the future.

MR. JACKSON: And this is getting them more members?

MR. PIGOTT: Yes, probably getting them more members; and it gives them greater scope for their activity.

MR. JACKSON: One last question: These jurisdictional tribunals seem, on the surface, to be a good idea. Do you know if the unions

would have any objection to that?

MR. PIGOTT: I couldn't speak for them. I think that there are certainly certain of the building trades that would welcome some means of bringing peaceful settlement to these disputes. They are occurring almost every week.

MR. MacDONALD: Where do you feel that the solution can best come from? Can it come from the departmental level of government? Have they got to be the mediators, or conciliators?

MR. PIGOTT: We have asked the unions on numerous occasions when these incidents have occurred why they don't set up a council of their own, with those in authority, to make a decision that their members would abide by, and we have had no success at all.

If the unions agreed to set up a council for the Province of Ontario, or even for the Dominion of Canada, to which all jurisdictional disputes would be brought, and if they would agree there would be no stoppage pending the decision of that board, and that the decision of that tribunal would be binding on them also, we would be satisfied. They have refused to do that.

It would appear to us that the only way we have of effecting some means of settlement and stability in the industry is to ask for the Labour Relations Board to set up a tribunal.

MR. MACAULAY: Isn't it a fact that there is some kind of jurisdictional committee set up in Ottawa, which deals more with the scope of the union to bring in its employees rather than the actual work done by them? I gather there is a jurisdictional committee, and I don't think it has been extended to this problem.

MR. PIGOTT: I don't know of any such committee; and I know that the unions, on being requested by us time and again to set up such a board, or advise us what procedure could be followed in an orderly fashion to settle these disputes, have, on each occasion, shrugged their shoulders and said: "There's nothing we can do except follow our own book of regulations," which means that a dispute has to be referred to the Board in Washington.

MR. MACAULAY: By "us" do you mean the Canadian Construction Association? When you use plurality -- "We have spoken to them" do you mean the Canadian Construction Association, or whom do you mean by "us"?

MR. PIGOTT: The Canadian Construction Association and the Toronto Builders Exchange.

MR. MACAULAY: And when was the most recent overture made in that connection?

MR. PIGOTT: I believe last spring.

MR. MACAULAY: In 1957?

MR. PIGOTT: Yes. I could get the exact dates. There are several meetings on record between the C.C.A. and officials of the . . .

MR. MACAULAY: Don't you agree yourself that it would be a better solution if this thing could be established through the unions than if it were established by the intervention of the government?

MR. PIGOTT: I will ask Mr. Adams to give you a reply.

THE CHAIRMAN: Mr. Adams is your counsel?

MR. PIGOTT: Yes.

MR. ADAMS: I would say, Mr. Macaulay, that experience has shown that the unions are not capable of operating such a jurisdictional tribunal. They have tried, and I am sure they would try again if certain pressures were applied, but they cannot develop an effective sanction for getting compliance, particularly at local level.

MR. MACAULAY: They may be defied -- is that what you say?

MR. ADAMS: Yes. If there was a provision in the Act for a local jurisdictional tribunal, as we have suggested here, it could well be set up on the basis that, unless you established a voluntary tribunal and operated it effectively -- that is, one that would take over . . .

MR. MACAULAY: I had that in mind.

MR. ADAMS: As a matter of fact, the present jurisdictional tribunal at Washington, I am pretty sure, is a voluntary tribunal; but the Labour Relations Act of the United States provides that if there is no voluntary tribunal a statutory tribunal will be established.

MR. MACAULAY: That is an additional problem that we don't have as much of here when we have, now, the Congress itself which seems to represent such a tremendous proportion of the unions. That has made it a little easier -- as a result of the merger -- to establish a jurisdictional board which will be complied with.

MR. ADAMS: Well, on the face of things one would say Yes, that the merger would make it easier because you don't have now the conflict between the AF of L and the CIO which is demonstrated in that wrought iron case.

MR. MACAULAY: Yes.

MR. ADAMS: But even although they have merged there are still internal difficulties of great magnitude that the Congress has to contend with.

Assuming that they have a jurisdictional committee -- which I am sure they have -- it deals with such things as which union is to be chartered in certain circumstances, and so on.

MR. MACAULAY: Yes; so I understand.

MR. ADAMS: And the actual dispute, or work consignment on the project, would not be within the jurisdiction of that committee as yet.

MR. MACAULAY: Is it true that this jurisdictional problem arises basically in connection with the construction trades?

MR. ADAMS: Well, it is more concentrated there, but there are problems of a similar nature in the printing trades and in one or two other areas.

MR. MACAULAY: But predominantly it is in your trade?

MR. ADAMS: But they don't result in work stoppage as they do in the construction trades.

One feature of these jurisdictional tribunals is this, that, to make them practical -- and we have considered this very seriously -- we think that it has to be on a local basis.

MR. MACAULAY: Why?

MR. ADAMS: Because there isn't time to go to Washington, or to go to Ottawa, with regard to some dispute over whether or not a carpenter or a lather is going to put the tile on a building. It is too far away. We think a system of local tribunals with some appellant tribunal to coordinate is the answer.

MR. MACAULAY: Couldn't the conciliation officers go out, if they are to be able to

resolve these things, as they seem to be -- that is, at the site; and they needn't be resolved overnight; and if there was some time limit, a matter of six or seven days, in which they could get together and bring in a decision by some councillor going out to the problem, wouldn't that resolve it?

MR. ADAMS: Well, with the sort of thing that we are suggesting there would be this local tribunal . . .

MR. MACAULAY: That is a different thing. You are talking about setting up local, geographical areas, and there is to be a tribunal for each area and you can appeal from that to somebody else; is that right?

MR. ADAMS: Yes.

MR. MACAULAY: Well, I was just suggesting to you the possibility of having enough people in the central body that could go out to the problem.

MR. ADAMS: That is another way of doing it, and I doubt if it is quite as practicable . . .

MR. MACAULAY: With respect, I don't think so; because if you have five geographical areas you have got five sets of standards difficult to coordinate, whereas if you have one central body all the different decisions are

coordinated and correlated in consideration of that one central body.

MR. ADAMS: One of the reasons for local treatment is that in certain areas certain unions are not operating. For instance, you can have, say, in Toronto, a dispute between carpenters, lathers and sheet metal workers. Now, perhaps in the Sudbury area the lathers do not have a union, and so the dispute would be between the other two.

MR. MACAULAY: I see.

MR. ADAMS: So that the decision in the Sudbury area doesn't have to be the same as it is in Toronto, because there is not a party there that is involved in it.

It is not a simple problem, I may say.

MR. MACDONALD: One other question: Has there been any attempt to establish in Canada a jurisdictional committee for Canadian problems replacing the ones in Washington?

MR. ADAMS: No, I don't think so.

MR. MacDONALD: There is one question I am rather curious on. It seems to me obvious that, locally, you could have a conflict that is emerging, and you have suggested that this would be reconciled by some appellant body, a sort of overall body, that would reconcile the differences emerging; but is that a practical proposition?

Isn't the problem you have got to resolve in terms of actual action on the site; and if you try, then, to resolve the conflict at a higher level you are going to have extreme difficulty?

MR. ADAMS: One of the criticisms we have of the Washington tribunal is its practice of making its decisions applicable to the particular works project on which the dispute arose.

For example, on the Collegiate building in Hamilton, which was called -- and miscalled -- I believe at the time the Mountain Heights High School, the tribunal made a decision on a jurisdictional dispute stipulating that it applied to the Mountain Heights High School. By this time one of the unions -- the one that lost the argument -- had found out that "Mountain Heights" was not the correct name of the project, so for that reason they said: "The decision is of no effect and we refuse to obey it." By the time we got the Washington people appraised of the error and the correct decision and put it down with relation to the school under its proper name the project was finished and another high school was under construction.

MR. MacDONALD: It sounds as if there were too many lawyers in this!

MR. ADAMS: There weren't any, as a matter of fact. But another project is started

and the decision is not considered a precedent there, and you start again.

I think you will find, either in the Green Book, or in the Rules and Regulations of the tribunal, that there is a constitutional provision that no lawyer may participate as a member of the tribunal or its council. That may be the reason for some of the confusion!

THE CHAIRMAN: Gentlemen, at this point I would like to observe -- and this is directed to you, Mr. Pigott -- that on Tuesday the 8th of October we are going to have ^{the} / Toronto Building and Construction, Trades council and the Hamilton Building and Construction Trades council, and I am going to ask the Secretary here to instruct the United Brotherhood of Carpenters and Journeymen Joiners provincial council to be here that day. I would like, after we have heard them -- maybe on another day -- to get you people to meet them in front of us and hear what you have to say and see if we can find out where the problem lies.

Do you think that would be of some benefit?

MR. PIGOTT: Yes; we would be pleased to attend such a discussion as that.

THE CHAIRMAN: I think it would be -- and perhaps I should ask the Committee if they are agreeable to that course?

A SPECTATOR: On behalf of Toronto and Hamilton building trades I should be glad to go along with that suggestion.

THE CHAIRMAN: It is just to hear each side of the problem and get down to it in detail.

All right, gentlemen. On page 15 -- changes in the industry, continued on to page 19.

MR. MacDONALD: Mr. Pigott, have you ever attempted to iron out jurisdictional disputes arising out of the introduction of new material by raising the matter in advance?

MR. PIGOTT: Generally speaking, in fact in every case, these disputes have arisen as a matter of surprise to both ourselves and the trade contractor involved; and that, again, comes about by virtue of the multiple bargaining that goes on.

We negotiate an agreement with the carpenters, yet another group of employers negotiates an agreement with the lathers and plasterers, and there is no common ground on which the two meet at the time of negotiation.

MR. MacDONALD: In other words, this is not a practical proposition for the most part, then?

MR. PIGOTT: It is a practical proposition if we could have all trades meeting for negotiation and settlement at the one time.

We have no means of knowing when one trade may decide that certain work is within their jurisdiction, in their opinion. If that were clear-cut in their Green Book and clearly understood by both the unions involved there would be no excuse.

MR. MacDONALD: Generally speaking, what you say is right; but it seems to me that if you have got new material coming in and you know it is new material if the issue is laid with the unions involved in advance, before they get into the dispute, and each take their respective stand on their entrenched interests, and everything else becomes involved in it, everything becomes more complicated.

MR. PIGOTT: Generally speaking these things don't happen abruptly. New material is introduced in a gradual way. It may take place over a period of three or four days; and it isn't until such time as it becomes fairly extensive in its application that the unions become concerned about it.

MR. WREN: To what extent in your organization do you use competent industrial relations officers? How many men would ^{you} have engaged in that full-time?

MR. PIGOTT: The Builders Exchange here in Toronto, for example, has a full-time

industrial relations officer in the person of Mr. House, who is the secretary of this committee.

MR. WREN: Is he the only one in the area?

MR. PIGOTT: We operate a labour relations committee of contractors from the Association. That committee meets probably sixty times during the year, on an average; it is the committee, really, that deals with these matters when they come up, as we endeavour to deal with them through the Building Trades council.

MR. WREN: Would that committee or the industrial relations officer circularize the unions concerned about the application of new material -- the use of new material?

MR. PIGOTT: He would if the matter were brought to our attention, that such a problem existed. These problems arise like the Asiatic flue -- without warning.

MR. ROWNTREE: If you had new material, in any event -- take the lathing situation -- you would want the new material applied by your existing employees with whom you have a contract? Wouldn't that be so?

MR. PIGOTT: That is true.

MR. MACGILLEY: And I suppose, also, that new material might be introduced in the middle of a job.

MR. MacDONALD: And isn't your problem that you want to install it by your existing employees, and your problem is that your employees are on a much less permanent basis than in the case of, say, a dispute between the steelworkers and the -- take the one in Hamilton, the bricklayers and the ceramic workers. There you have employees that are permanent employees; they are there year in and year out. It seems to me you have got a problem because your employees are on shorter term employment.

MR. PIGOTT: I don't think that the problem arises for that reason. If a trade union, say, negotiate and sign a contract -- we will say the Bricklayers Union -- and says: "Now, this particular work belongs to us," we have no quarrel with their jurisdictional claim there, nor could anybody else have a quarrel with it, and it isn't until the first of the work starts, which may be eighteen months or a year after the contract has been signed before the issue is raised by another union in opposition . . .

MR. MACAULAY: . . . you might have to send a list around of all the materials that you are going to use and ask them if they were arguing with any of the others?

MR. PIGOTT: Yes; and frequently a jurisdictional dispute will arise over the

jurisdiction of certain work that has been carried on for quite a long time by one trade.

MR. MACAULAY: I can see how it is done by the Hydro, but when you sign a contract with a union you don't even know what job it is going to involve and there are other contracts signed with different unions. The Hydro analogy wouldn't work in that.

MR. YAREMKO: Would you, or Mr. Adams, tell us what the sequel to the D. Smith grievance was?

MR. ADAMS: Which grievance?

MR. YAREMKO: Exhibit No. 2 -- D. Smith -- between the bricklayers and the ceramic workers? What happened? Did anything happen after this decision was granted? I notice it was June 17th of 1957. That is just a few months ago.

MR. ADAMS: Something did happen and I did know at one time, but I have forgotten. I wouldn't like to answer your question at the moment. I would have to check.

MR. METZLER: This was really an arbitration board which was set up without the intervention of the Department of Labour, and I doubt if we would receive a copy of the decision. If the chairman had been appointed by the Minister we would have got a copy; but there has been no

follow-through. This is the first we have heard of it.

THE CHAIRMAN: Could you find out for us?

MR. ADAMS: I could tell you the sequel in another instance which was that the United Steelworkers surrendered their bargaining rights in order to save the company going into bankruptcy...

THE CHAIRMAN: Could you find out what happened in that other case -- the United Glass and Ceramic Workers?

MR. ADAMS: Yes, I can find out and let you know. I will write you a letter about it.

THE CHAIRMAN: Now, gentlemen, page 19 -- organizational picketing.

MR. JACKSON: I wonder if what is referred to here is secondary boycott picketing? This is a thing I have been seeking information on.

MR. ADAMS: Is this what?

MR. JACKSON: Is this secondary boycott picketing?

MR. ADAMS: No; this is just organizational picketing.

Secondary boycott picketing is where a union pickets an employer because he is using a product which they think has been produced under unfair circumstances. That is one type of it.

For example, some years ago -- just so

I won't offend any people present -- picket lines were on Yonge Street in front of the T. Eaton store, protesting and carrying signs stating that the shoes of a certain manufacturer sold in that store were produced under what they called unfair conditions, and they were attempting to persuade Eaton's customers not to purchase these shoes.

That is a secondary boycott type of picketing. But we haven't experienced any such instances here, because that kind of problem affects manufacturers of products more than it does . . .

THE CHAIRMAN: This is where one union is picketing against another union?

MR. ADAMS: Organizational picketing is what you see going on in this city, where a whole contract project is stopped at the picket line and nobody can cross it; and they are trying to force the employer to close up his contract in Montreal. He is a contractor who has contracts in both Montreal and . . .

MR. WREN: What company is that?

MR. ADAMS: The Louis Donolo Company.

MR. JACKSON: You are not objecting to the fact that there is a picket line around the job; you are objecting to the fact that no other union will cross that line?

MR. ADAMS: In the first place, there may be a picket line around a job, which is there legally and properly; there may be a strike . . .

MR. JACKSON: Let us say there is no strike. You may have non-union men on a job and the carpenters and bricklayers picket that job. They don't stop anybody going in and out. Do you object to that?

MR. ADAMS: Yes; if there is no strike we say there is no reason for picketing.

MR. JACKSON: You don't believe in demonstrations at all? Can a person demonstrate at all? They haven't stopped the work.

MR. ADAMS: The demonstration is all right, but when a union, without attempting to persuade the employees to join, simply puts a picket line on you won't get your skilled labour until you force the employees to join the union. That, I would say, is improper and contrary to the present Act.

THE CHAIRMAN: I don't think it is.

MR. ADAMS: The Act does not prohibit picketing as such in any circumstances. It only prohibits strikes, and where there is no employee on strike there is no offence against it. Picketing is unlimited for organizational purposes.

MR. JACKSON: I don't know if you have

answered my question. Perhaps as I have put it you haven't grasped it.

There is a case in London, Ontario, right now, where the employer is claiming to be using non-union work, so the jobs that he is doing are picketed peacefully. There is a demonstration; but the men go to and from work. The question which I am trying to ask is: Do you object to that? Is that what you are saying?

MR. ADAMS: Yes. We think that this form of picketing should be prohibited. I would say, however, that the particular contractor would probably not be concerned so long as his men were coming to work.

MR. JACKSON: Therefore, I can't see your objection.

MR. ADAMS: Well, the objection is because usually when a picket line is prolonged for any purpose, peaceably or otherwise, outside of skilled trades, other members of unions refuse to cross it and reach their own agreement in order to respect the other fellow's picket line; and then you have work stoppage.

MR. JACKSON: Have you ever heard a definition of "picketing"? Would you consider defining "picketing"?

MR. ADAMS: Well, I could define it for you, but I would want to do it somewhat carefully. But it can be defined.

The offence of picketing can certainly be written in the statute book.

MR. JACKSON: You call it an offence?

MR. ADAMS: If you decide to create the offence of picketing under certain circumstances.

MR. MACAULAY: Basically, what you are suggesting is only to cover construction jobs where you sign contracts with skilled trade unions; and your company might be employing non-union labour and there might be a union trying to unionize that labour, and if they throw up a picket line the skilled people will not cross the picket line. Is that it?

MR. ADAMS: Yes; and the Teamsters usually refuse to drive their trucks through it and the materials are held up.

MR. MACAULAY: Perhaps Mr. Jackson will read that when it comes in the evidence.

MR. JACKSON: What was that?

MR. MACAULAY: I asked a question so that you would hear it explained another way.

On page 20, wouldn't you say that the example you give there was rather a problem which arose from a jurisdictional problem as to the products rather than as organizational picketing?

MR. ADAMS: Do you mean the steel shelving?

MR. MACAULAY: Yes.

MR. ADAMS: That is a case where the sheet metal workers union asserted jurisdiction over the installation of shelving, which they had not previously claimed.

MR. MACAULAY: Wouldn't you say that was really a jurisdictional problem rather than organizational, under the heading Organizational Picketing?

MR. ADAMS: Well, I suppose that the claim of the Sheet Metal Workers Union there was because we found members of the United Steelworkers of America who were certified and acted as the bargaining agent with the manufacturer.

MR. MACAULAY: That is a jurisdictional problem?

MR. ADAMS: Yes, in a way it is; but it was also an attempt to force those people to join the Sheet Metal Workers Union, as well.

MR. MACAULAY: You might say that all jurisdictional problems have the indirect effect of organizational picketing.

MR. ADAMS: There is a very direct relationship between organizational picketing and the jurisdictional claims of unions.

MR. MACAULAY: And vice versa?

MR. ADAMS: Yes. In fact, in some of the disputes it would be impossible to say

into which category they fell.

MR. MACAULAY: That is really my point.

MR. PIGOTT: If I might try to clarify that further, a good example of an organizational strike was something that took place in Toronto about 1950. It was a very serious one, involving the common labourers.

(Page 805 follows)

The union claimed to represent those men who had been unable to obtain certification. The employers accordingly did not consider that they represented their labour employees, so that to in order to force the employers into signing an agreement requiring these men who belong to the union, pickets were put on all major construction jobs in Toronto and they were closed down for a period of one month and no trades would cross that line. This was done in an effort to force men into joining a union that they had indicated they were not prepared to join.

The refusal to cross picket lines is a very deep rooted one. We had an example with our own company at the time we constructed the Canadian Exhibition Grand Stand, the C.I.O. who were not in the building trades at all really sent some pickets in attempting to create a strike in support of a labourer's union, in other words, to try and force the employees that we had into joining the C.I.O. Labourer's Union, despite the fact that all of our skilled trades were A.F. of L. men. That job was closed down for three days because none of those men would cross a picket line of a C.I.O. Union.

MR. MACAULAY: Actually, they had

no right not to cross it. Do these contracts ever provide that in the event there is a picket line thrown up during one of these jurisdictional or organizational fights that they are entitled not to cross it?

MR. PIGOTT: No sir, these contracts all carry a no strike clause and the grievance procedure with arbitration.

MR. MACAULAY: And your argument later on is that there is no effective procedure to require the honouring of that undertaking?

MR. PIGOTT: That is right, sir.

MR. MacDONALD: Mr. Chairman, with regard to Exhibit 3 which is a good indication of this sort of mixed jurisdictional and organizational problem, the recommendation of the Arbitration Board there was that the responsibility, in their opinion, for resolving this rested with the Department of Labour and that no action be taken. I wonder if the representatives of the Department could give us some indication of why they felt that this was not the kind of dispute that they could play a role as indicated by the report in resolving it?

MR. MACAULAY: Does that not get down to the question of policy?

THE CHAIRMAN: Yes, I think so. I have already made a ruling on that.

MR. MacDONALD: Mr. Chairman, it seems to me the nonsensical ruling --

THE CHAIRMAN: Mr. MacDonald, I will not tolerate any such adjectives as nonsensical. I think we all have an equal amount of intelligence as that possessed by you and I rule against the question as a matter of Government policy and you are not going to get around it.

MR. MacDONALD: In other words, when a witness comes in and gives us an example of a problem, they have the report of an Arbitration Board --

THE CHAIRMAN: In other words, the ruling stands and you are out of order and I won't hear anything more about it.

MR. MacDONALD: The dictator at work.

THE CHAIRMAN: Page 21, Criticism of Present Legislation.

MR. MacDONALD: Mr. Chairman, before we leave this, I want to raise this again, I want to submit to you that this is not a case of policy, this is a case of administration and surely our job is to investigate administration.

MR. MACAULAY: Well, you could ask --

MR. MacDONALD: I am addressing the Chair if I may.

THE CHAIRMAN: I think I can handle this all right, Mr. Macaulay. Go on.

MR. MacDONALD: My submission to you was that this is not a question of policy, it is a case of the administration of the Act. I am not asking with regard to policy, I am asking --

THE CHAIRMAN: You are asking why.

MR. MacDONALD: I am asking why in the instance of a purely administrative procedure that has no reference to policy at all.

THE CHAIRMAN: Well, I am ruling, your objection to the contrary, that this is a question of policy and not of administration.

MR. MacDONALD: Clearly anything controversial that you do not want discussed is just ruled out.

THE CHAIRMAN: Mr. MacDonald, I like you and I want to continue liking you --

MR. MacDONALD: Your liking or disliking me is not important.

THE CHAIRMAN: It is to me. Please do not proceed because I have made a ruling and I

will not change it, so let that be the end of it and do not waste time.

MR. YAREMKO: Mr. Adams, earlier you did refer to Exhibit 3, and you said, and I did not quite understand you, that the United Steelworkers of America surrendered their bargaining right in this instance?

MR. ADAMS: Yes, following this recommendation of the Board, the parties were unable to reach agreement and the steelworkers did not press for the execution of a collective agreement and surrendered their rights in the situation and allowed the employees to go to the Sheetmetal Workers Union.

MR. METZLER: When you say they surrendered their jurisdiction, would that have to do with the manufacture of the product or merely its installation?

MR. ADAMS: I am under the impression they gave up their right both as to manufacture and installation. As a matter of fact, there were additional documents which could have been attached to this which disclosed that. I felt I should not use that without asking the consent of the United Steelworkers, because it involved their rather private business and they asked me not to file the documents, because since that time the merger of the Congress has taken place

and they are trying to act in good faith within that, and I do not want to precipitate or at least to resurrect this dispute. For that reason I did not give you the details of the sequel.

MR. YAREMKO: My objective is not to resurrect this, but to get information. That would mean, in spite of the very strong hand of the Board in respect to Mr. Mathias and the sheetmetal workers that was used in this decision, actually the sheetmetal workers won their point?

MR. ADAMS: That is right.

MR. MacDONALD: May I ask Mr. Adams this, after you have directed this communication to the Department of Labour, did you receive any reply?

MR. ADAMS: I did not direct it to the Department, it was to the Board of Conciliation. It concludes with a suggestion and our comment on that suggestion is that it has not produced any tangible results that we know of, and we ask this committee to take it up from there.

MR. MacDONALD: How can we take it up in view of the Chairman's ruling?

THE CHAIRMAN: This has nothing to do

with the Chairman's ruling. We can consider the report no matter what the Government's policy is, we do not care what the Government's policy is, it is what we think. We do not need Government policy to make up our minds.

MR. MacDONALD: A very novel position unique in the annals of history.

THE CHAIRMAN: The longer you live, Mr. MacDonald, the more novel things you are going to see in this country.

MR. ROWNTREE: Mr. Adams, I understand you have had not a little experience in this field of labour matter?

MR. ADAMS: That is correct.

MR. ROWNTREE: And can you answer this: Do you know of any other similar jurisdictional disputes that have developed or have existed since the merger of the A.F. of L. and the C.I.O.?

MR. ADAMS: Yes, as a matter of fact, one of them is detailed here in the brief, the Northern Electric and Bell Telephone situation. Only last year there was a situation quite similar, the wrought iron situation came along where the sheetmetal workers boycotted a product because it was made in a factory where the union, a certified union was not the sheetmetal workers. The result of that situation

was that the employer had to contrive some way of getting his employees to leave their certified union and join the Sheetmetal Workers Union. I might say that the Sheetmetal Workers Union application for conciliation case passed under the nose of the present Labour Relations Board without a murmur of dissent from anyone, much to my surprise.

MR. WREN: When you say they boycotted the product, in what way, to their own members or --

MR. ADAMS: They told this manufacturer that they would not permit his product to be installed on any building project in the future unless the employees in his firm gave up the present union affiliation, the United Mine Workers by the way and switched over to the Sheetmetal Union.

MR. WREN: What action could the Labour Relations Board have taken?

MR. ADAMS: Well, had they known the facts, namely that the employer had been coerced into switching from the Mine Workers to the Sheetmetal Workers, I do not think that they would certify the Sheetmetal Workers.

MR. WREN: Whose responsibility was it to inform them?

MR. ADAMS: Whose responsibility, I

would say the United Mine Workers, they lost the certification, they sat there and allowed the proceedings to go on and did not make any protest. I did not appear for them.

THE CHAIRMAN: There is nothing we can do in the Labour Relations Act to correct that if one union refuses to say anything about it and they are the ones who are being aggrieved.

How can we possibly deal with that in amending this Act?

MR. ADAMS: One of the ways is to recommend to the authorities at Ottawa to repeal Section 4 of the Combines Act because in that situation the United Mine Workers and myself acting for the company asked for the Combines officials to come down and investigate this disgraceful situation. An investigator came and when he discovered that he would have to make a report involving a union he bowed out and went home and made no report.

MR. WREN: And the union requested this service?

MR. ADAMS: Yes, the United Mine Workers actually filed it.

THE CHAIRMAN: That was prior to the 10th of June, 1957, I hope?

MR. ADAMS: I do not know what significance there is to that date, but my

recollection is that it occurred during the Fall of 1956.

MR. WREN: Is there any significance to that date?

MR. ROWNTREE: The fact is this, that the men already belonged to one union, and another union moved in and there was an innocent party involved who was helpless, is that right?

MR. ADAMS: You mean the company?

MR. ROWNTREE: Yes.

MR. ADAMS: Well, they were not exactly helpless for this reason, that some means had to be found to keep the company in business because it was faced with utter ruin.

MR. ROWNTREE: They were threatened.

MR. ADAMS: The device was, and I take some pride in having suggested it, he informed his superintendent in a rather loud voice in circumstances where some of the employees could not help overhearing that he would have to go out of business because of the threats of the Sheetmetal Workers Union. His employees took it from there and brought in the Sheetmetal Workers Union and he is now operating as usual, has his own collective agreement with the sheetmetal workers.

MR. WREN: There is a question I would like to direct perhaps to our own counsel, and it

centres about the discussion we are having now. Where an instance occurs where a union officially suggests to an employer that if he does or does not do certain things that he will destroy that business or destroy that industry, does that company have any resort to Common Law to damages for a person threatening or coercing in that manner?

MR. WALSH: I would say he would have.

MR. MACAULAY: Not against the union, though.

MR. WALSH: No, against the person who made the threat.

MR. WREN: Well, if the person is a union officer who has no assets of his own, then whether he is right or not there would be no point in taking action against him?

MR. WALSH: I would say not, he would have to sue in the ordinary way in the courts, and if the man was not worth anything --

MR. MACAULAY: On the other hand, Mr. Adams, that application came before the Labour Relations Board, surely all that Board is ever expected to do is to make a decision based on the evidence submitted to it?

MR. ADAMS: Yes.

MR. MACAULAY: And if there was no evidence submitted to it of this other matter surely

the Board was justified in certifying the application?

MR. ADAMS: I am not suggesting for a moment that the Board was at fault because they acted on the information before them.

THE CHAIRMAN: There is a hint that the Labour Relations Board failed to do something they should have done.

MR. ADAMS: I did not mean to leave that impression in your mind.

THE CHAIRMAN: It was something the union should have done?

MR. ADAMS: Yes.

MR. WREN: Of representation?

MR. ADAMS: Now, you say did that occur after the merger and I am not too sure of the dates, but in any event the union men would not send a participant and the merger has occurred anyway.

MR. ROWNTREE: They are still outside?

MR. ADAMS: They are outside.

THE CHAIRMAN: Page 21, Criticism of the Present Legislation, surely there is none?

MR. MacDONALD: Can we indulge in that at all?

THE CHAIRMAN: Mr. MacDonald, I will

give you full scope here. Page 21 continuing on to the end of page 23.

MR. WREN: There is one point there --

MR. YAREMKO: You referred on a couple of occasions to the combination of good and bad, is **there** anything in your mind within the practices of the construction business which is good which does not exist perhaps in other fields? That is a general question.

MR. ADAMS: No, I do not think you can put your finger on any particularly good practice which you would not find in some other type of industry. You see, generally what is good here is you have a widespread acceptance of collective bargaining by this kind of employer and what is bad, of course, is the fact that the contracts are not observed. That is the general picture.

MR. MacDONALD: This is a point I tried to make earlier, I think a lot of what you might describe as bad practices have emerged whether on the union side or on management side, and they are a production of relationships with the management down through the years and I think they have arisen because of the desperate effort on the part of the unions to protect the livelihood of people in a proper way. In many instances people are employed ~~six~~ months of the year and they can be out of employment for the

other six months. I am not condoning some of these things. A number of unions themselves would like to work it out.

MR. ADAMS: I can only express the opinion that the bad practices of the unions, they resort to work stoppages instead of grievance procedures has nothing whatever to do with the sporadic employment conditions which they at one time or another suffer.

MR. MacDONALD: I think this is a matter of opinion.

MR. ADAMS: The number of instances of work stoppages and failure to resort to orderly, peaceful means instead has grown by leaps and bounds within the last few years which indicates that the better the employment in terms of volume the more incidents of this kind arise.

MR. MACAULAY: Or the stronger the unions are becoming.

MR. ADAMS: Well, the strength of the unions arises too, but jurisdictional disputes are not as common or acute back in depression days because when tradesmen in those days got a job they felt so lucky about it they did not quibble too much about details as to whether their jurisdiction was being observed or not.

MR. MacDONALD: That is the point I am making.

MR. YAREMKO: I wonder if you would clarify, you used the expression that these difficulties exist because of the protecting of the livelihood of the employee and I want to know, protecting as against whom?

MR. MacDONALD: Well, the so-called -- I mean, repeatedly throughout this they are referred to as the monopoly position of the union. Now, translated in the terms of a brief we heard yesterday, the unions have tried to achieve their purpose, the basic purpose of providing a level for these people and on a continuing basis they require more of these powers. That is the point I am making.

MR. ROWNTREE: Outside the law?

MR. YAREMKO: Protection against whom? Protecting their livelihood, the bricklayer, protecting his livelihood as against the carpenter?

MR. MacDONALD: No. Earlier it was functioning in a kind of movement where it is just as likely he is going to be out of work for six months of the year because of the sporadic nature of his work. And now you in the future shall say that this is an outgrowth of the actual conditions, the nature of the industry, you can say it is an

outgrowth of management's approach to it. I think it is part and parcel of both in the past.

MR. JACKSON: The unions do not create the jobs, I do not think some of that is correct.

MR. MACAULAY: Let us not waste these gentlemen's time on our problems.

THE CHAIRMAN: Any other criticisms of the legislation?

MR. MACAULAY: Are you working on page 22?

THE CHAIRMAN: Pages 21 to 23.

MR. MACAULAY: In paragraph 2, on page 22 you say:

"So far as we are aware there
"is not one instance of a prosecution
"having been instituted against any
"building trades union because of a
"work stoppage occurring during the term of
"a collective agreement."

I suppose that is something of which you yourself might stand indicted, Mr. Pigott, is that correct?

MR. PIGOTT: May I just give an opinion as to why?

MR. MACAULAY: That includes you, though, does it not?

MR. PIGOTT: That is right. If an illegal work stoppage occurs. If an illegal work stoppage occurs the contractor may be suffering the loss of many thousands of dollars on the one hand, the union is seeking a jurisdiction which may be worth a great deal to it particularly on a national or an international basis. The prosecution can only take place by the individual effort of the contractor concerned through his counsel, and he applies to the Labour Relations Board. After the necessary time which is generally fairly considerable a decision may be brought down that the strike is unlawful, and he may be given leave to prosecute. During this time his job has been closed, his damages may run into very substantial figures. He cannot hope to recover those damages because the union is outside the rule of the Civil Law. All that he can hope to achieve is a fine against the union, and the maximum fine under the Act is relatively modest in comparison with the objection the union may have in mind in the case of the particular stoppage concerned. It is my opinion that for that reason contractors generally have not gone to the expense and trouble of attempting to prosecute a union.

MR. MACAULAY: I notice in here you say on page 22 that they should have complete legal status, do you mean by that that they should be incorporated?

MR. PIGOTT: No.

MR. MACAULAY: You would not go so far as to say they should be incorporated, but rather if they are parties to an agreement they should as a union be held responsible?

MR. PIGOTT: Yes, sir.

MR. ADAMS: The assets of the union should be within reach of the persons who have suffered damage from them.

MR. MACAULAY: What about the company?

MR. ADAMS: They are within reach now.

MR. MACAULAY: I do not know that they are. Secondly, what assets do you mean of a union?

MR. ADAMS: Well, unions have bank accounts and substantial assets, properties of all kinds and all we are suggesting here is that we have the right to sue them when they breach a contract and if the courts decide we have a just claim and make an award of damages, we have some hope of collecting.

MR. MACAULAY: If you sue any person in Civil Law there is no law that he has to

deposit money in your jurisdiction or if he does not have money at all that he create it.

MR. ADAMS: The question of requiring them to keep assets within the jurisdiction is not necessarily related to the right to sue them. What we are pointing out here is there is a separate statute, the rights of labour which exempts unions from lawsuits as organizations and which goes on to say a collective agreement shall not be made the subject of any action in court.

MR. MACAULAY: We are going to look into that, but I was interested in your ideas on this, your making them liable to the Civil Court does not go as far as to require them to be an incorporated entity?

MR. ADAMS: No.

MR. JACKSON: Would you have any objection to them being an incorporated entity?

MR. ADAMS: No, I have no objections but I do not think it is the practical solution to the situation. I do not see any reason why a union cannot continue as an unincorporated body so long as it is within the jurisdiction of the courts as such.

MR. MACAULAY: As a union?

MR. ADAMS: Yes.

MR. MACAULAY: Rather than as an official?

MR. ADAMS: Well, it is hopeless to sue officers of a union because what they do, they do not put on picket lines as individuals, they do it on behalf of their organization and when collective agreements are breached by unlawful work stoppages it is not the individual union leader who does this, it is done by the organization of which he is only an agent.

MR. MacDONALD: Mr. Chairman, as an alternative to court prosecution, these employers now get the answer in the arbitrary procedures under the Act?

MR. ADAMS: No, I would say not. Do you mean can you collect damages from unions?

MR. MacDONALD: Not in the actual collection of damages but if there has been a violation of the contract, can you not have these grievances fully arbitrated?

MR. ADAMS: That is possible, but you only get, you see, a declaration that the union has breached its contract. And now, it is utterly useless because we know before we file the brief that there is no point in someone saying, "Yes, the union have breached the agreement."

MR. MacDONALD: In other words, you

have your answer, you send it to the department and you get no reply at all.

THE CHAIRMAN: While the thing is being argued your work is stopped and you are losing money.

MR. ADAMS: Yes.

THE CHAIRMAN: Mr. Macaulay stated that the employer perhaps was at fault in not pressing.

MR. ADAMS: There is no incentive to an employer to prosecute because the more he does of that sort of thing the more the work stoppage continues and the greater is his inequitable loss.

MR. ROWNTREE: The initiative is also left on the part of individual employers to lay a private complaint in connection with the matter that may be the subject of a nationwide organizing campaign.

MR. ADAMS: Yes. I might say as a practitioner in the field for the past 15 years, I can think of nothing more likely to extend the work stoppage than for the employer concerned to seek to prosecute the people who are causing it. Unfortunately sometimes it is done, but it is not the way to settle a strike.

MR. METZLER: I am afraid I cannot altogether agree with Mr. Adams.

THE CHAIRMAN: I do not think we are interested in whether you agree or not.

MR. METZLER: I doubt if it is borne out by the facts before the Board.

THE CHAIRMAN: Mr. Adams has just given us his opinion.

MR. MacDONALD: Well, could I ask Mr. Metzler why he does not agree?

MR. METZLER: Well, because I think your application for leave to prosecute has been filed or an application for a declaration that a contract is unlawful has been made, in most circumstances, Mr. Reed may be able to bear me out, the strike has ceased either in the course of these proceedings or as a result of filing it.

MR. MACAULAY: What good does it do after they have already ceased all work for five days and the man has lost \$5,000 and they have had their wrist slapped, that is all it amounts to, they have had their wrist slapped.

MR. YAREMKO: Mr. Macdonald is disagreeing with Mr. Adams' viewpoint because when we were examining the statistics that was brought out.

MR. METZLER: The point is, if something had not been undertaken in this case, the strike would have been allowed to

drift. I think this contributes to the early settlement of the dispute.

MR. YAREMKO: If I might draw upon your knowledge, the Ford Company is now making a claim against an insurance company for loss occurring during the course of a strike.

MR. ADAMS: Yes.

MR. YAREMKO: Now, was that strike legal or illegal strike, I do not recall?

MR. ADAMS: I think it was illegal, but I do not think it is material.

MR. YAREMKO: Legal or illegal?

MR. ADAMS: I do not think it is material to the situation because their company is suing under an insurance policy which insured them against loss due to riot or insurrection and their claim is that what happened amounted to riot and therefore the insurance company is liable.

MR. YAREMKO: My point is this, the Ford Company is suing for several millions of dollars for damage which occurred during a strike.

MR. ADAMS: Yes.

MR. YAREMKO: I just wanted to recall whether that strike was a legal -- whether these damages occurred during a legal strike or whether these damages occurred during an illegal

strike. I do not recall whether the strike was legal or illegal, but the claim is in the millions of dollars.

MR. ADAMS: Nor do I remember at the moment.

MR. MacDONALD: As a general practice, does the construction industry insure itself against losses as a result of work stoppages?

MR. ADAMS: We say we cannot find such an insurer.

MR. WREN: It is available?

MR. ADAMS: It is not available to anybody.

MR. MACAULAY: Just like trying to insure yourself against the rising price of cement. Is that not one of the expenses on a contract?

MR. ADAMS: It is a non-insurable risk in the opinion of the insurance companies. Another instance of it which I can, from personal experience recall, you cannot get insurance against ice destroying your summer property on the shore of Lake Simcoe, they will not carry such a risk. Nor will they carry the risk of loss due to strike, and I do not blame them.

MR. WREN: Mr. Adams, from your experience and training in law, how many other

statutes are there that you may know of off hand where the laying of charges or the prosecution, so to speak, lies at the hand of the complainant? Is that an unusual situation or is it common in other statutes?

MR. ADAMS: I say it is unusual outside of the area of labour relations law generally speaking.

MR. YAREMKO: The Lord's Day Alliance.

MR. ADAMS: It is unusual, generally speaking when the Government in its wisdom declares something is an offence punishable upon conviction, it is the function of the police and the Crown Attorney to enforce the law, lay the charges and conduct the prosecution.

MR. MACAULAY: The Factory, Shop and Office Building Act is an example where you have to lay in information where they have early closing by-laws.

THE CHAIRMAN: The deserted wives and childrens maintenance Act is another.

MR. ADAMS: The Factory, Shop and Office Buildings Act if you violate the regulation the inspector lays the charge.

MR. MACAULAY: No, where there is an early closing by-law it is done by petition, if there is an offence the Crown does not take

any part in laying the information.

MR. ADAMS: There are other instances.

MR. WREN: My point is, here you say in this brief that the Labour Relations Act is a rare exception that it is just not done in other Acts.

MR. ADAMS: Well, it is relatively rare, because with some relatively trivial matters, for instance, speeding on the highway, the police enforce it, and very well too.

MR. MACAULAY: I know, but do you not think that the difference has been a concept in the past that the relationship between a union and a contractor was a matter of private property, whereas speeding on the highway is a matter of public concern, and only now are matters of private contractors and unions becoming a matter of public concern because of the ramifications.

MR. ADAMS: I grant you that it might have been necessary 20 years ago to have a public prosecutor enforcing the Labour Relations law in this province, but I suggest that the time has come that with the volume of collective bargaining and the number of instances in which the law is ignored, and brought into disrepute, it is high time the government took an

active interest in either supporting this law or abolishing, whichever they think is correct.

MR. MACAULAY: Or giving you the right --

MR. ADAMS: And we are suggesting here that they exercise the same supervision over misconduct by the employers, and not leave it to the unions to bethe proxecutor.

THE CHAIRMAN: You do not say in relation to the unions, just of the employers?

MR. ADAMS: Oh no, we are quite conscious of the fact that employers on rare occasions are guilty of offences under this Act.

MR. YAREMKO: Is there any jurisdiction in which unions can be sued on the North American continent?

MR. ADAMS: Yes, in quite a number of the United States of America you may sue the union as an entity in a civil action.

MR. WREN: Not in Canada though?

MR. ADAMS: No.

THE CHAIRMAN: Gentlemen, it is now 10 minutes to 4, and we still have a considerable amount of this brief to go on with. If you think we cannot finish it, I do not like to have to bring these gentlemen back, but --

MR. MacDONALD: Mr. Chairman, if they are coming back later at which time we are going to have the unions involved and these witnesses, it is conceivable that any tag ends that are left over are going to be dealt with then.

MR. MACAULAY: Well, they have pretty well put the principles of their points anyway.

THE CHAIRMAN: The rest of it is mostly recommendations that you are making here on in?

MR. PIGOTT: Yes, sir.

MR. ADAMS: May I make a suggestion that while we have dealt with this in rather general terms, but at any time the committee should feel that they would like to have a more specific or more concrete proposal we would be glad to prepare it for you if it would be of any assistance.

THE CHAIRMAN: It is possible after we hear your views again and also the views of the groups of the other trades councils that we may ask you to be good enough to do that.

MR. ADAMS: Someone suggested that we define "picketing" or the offence of picketing, and I will be glad to prepare something in that

direction if the committee would like to have that.

MR. YAREMKO: Mr. Chairman, there is one question which I thought we might go into this afternoon, but there will not be enough time. Perhaps Mr. Adams or Mr. Pigott might keep this in mind: I for one, and I think other members of the committee have continuously heard of a problem which exists in the building trades of the situation as to the time limits either for certification or conciliation, the time limits under the Act are so extended that by the time the parties get anywhere near to an agreement, the job is over and that ends the matter. I would like to hear, Mr. Chairman, the views of Mr. Pigott and Mr. Adams on their next visit.

THE CHAIRMAN: Very well.

THE SECRETARY: There is one other point I would like to bring up in this discussion we have had in collective bargaining between the exchange of a number of unions and I believe a situation exists in Montreal and I think perhaps the contracts would like to give the committee the benefit of their knowledge from what they can find out from the Montreal people, how it is carried on in Montreal.

THE CHAIRMAN: Yes, very well.

Would you be good enough to inform the Brotherhood

of Carpenters and Joiners to be here on the 8th of October, and notify the first one that you have now, the Canadian Union Conference of Oshawa, unless they are involved in the building trades, that we would rather have them at a later date.

THE SECRETARY: Very good, Mr. Chairman. For the benefit of the Committee, I have two more briefs that will come up next week.

THE CHAIRMAN: I would like on behalf of the Committee and personally to thank you very sincerely for the very able and clear presentation that you have made to us, and we trust that you will give us your further assistance.

MR. PIGOTT: Thank you very much.

THE CHAIRMAN: We will adjourn now until 11 o'clock on Tuesday morning next.

---(The hearing adjourned until 11 o'clock on Tuesday, October 1st, 1957.)



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